

EXHIBIT 120
-
REDACTED VERSION OF
ECF NO. 596-31

Exhibit 29

Deposition of Joseph Silva (June 7, 2017)
(excerpted)

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CUNG LE; NATHAN QUARRY, JON)
FITCH, on behalf of)
themselves and all others)
similarly situated,)

Plaintiffs,)

vs.)

Case No.
2:15-cv-01045-RFB-(PAL)

ZUFFA, LLC, d/b/a Ultimate)
Fighting Championship and)
UFC,)

Defendant.)
_____)

VIDEOTAPE DEPOSITION OF JOSEPH SILVA

Richmond, Virginia

June 7, 2017

8:11 a.m.

Reported by:
KIMBERLY L. RIBARIC, RPR, CCR
JOB NO. 50374

<p style="text-align: right;">38</p> <p>1 SILVA</p> <p>2 information memorandum dated May 2007 by Deutsche</p> <p>3 Bank, it bears the Bates range DB-ZUFFA 6712 through</p> <p>4 6786.</p> <p>5 Have you seen this before?</p> <p>6 A. No, it does not look familiar to me.</p> <p>7 Q. Are you aware that from time to time while</p> <p>8 you were working with Zuffa, Zuffa sought financing</p> <p>9 in order to continue its operations?</p> <p>10 A. I was not privy to the details.</p> <p>11 Q. Okay. Please turn to page 6725, which I'm</p> <p>12 looking at the Bates number, that's the little black</p> <p>13 number at the bottom right-hand side of the page,</p> <p>14 under the Executive Summary.</p> <p>15 And I'd just like to draw your attention to</p> <p>16 the first full paragraph under "Zuffa business</p> <p>17 overview," in the last sentence of that first</p> <p>18 paragraph, and just ask you for your opinion of that,</p> <p>19 the sentence that says: "The UFC and Pride are the</p> <p>20 top two MMA brands in the world by most metrics, and</p> <p>21 management believes that the WEC will be the third by</p> <p>22 2008."</p> <p>23 Do you see that?</p> <p>24 A. Okay.</p> <p>25 Q. And this is dated in or about May 2007.</p>	<p style="text-align: right;">40</p> <p>1 SILVA</p> <p>2 company's recent acquisition of Pride Fighting</p> <p>3 Championships will further consolidate the vast</p> <p>4 majority of the world's top fighters under one</p> <p>5 umbrella and allow the Company to further develop</p> <p>6 relationships to penetrate its brand in Asia."</p> <p>7 Do you see that?</p> <p>8 A. Uh-huh.</p> <p>9 Q. So it's fair to say that this document was</p> <p>10 written just after Zuffa acquired Pride, is that</p> <p>11 fair, from the context?</p> <p>12 A. Yes.</p> <p>13 Q. And would you agree with the -- would you</p> <p>14 have a basis to disagree with the statement that</p> <p>15 Zuffa's recent acquisition of Pride would further</p> <p>16 consolidate the vast majority of the world's top</p> <p>17 fighters under one umbrella; do you agree with that?</p> <p>18 A. It would give us more, yes.</p> <p>19 Q. Would -- would you agree that, as a result</p> <p>20 of Zuffa's acquisition of Pride, Zuffa was able to</p> <p>21 further consolidate the vast majority of the world's</p> <p>22 top fighters under its own umbrella?</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 A. Yeah, I would agree that it -- it acquired</p> <p>25 us more top fighters.</p>
<p style="text-align: right;">39</p> <p>1 SILVA</p> <p>2 In your experience and knowledge of the</p> <p>3 industry at -- at that time, is that an accurate</p> <p>4 statement?</p> <p>5 MR. ISAACSON: Objection. Form.</p> <p>6 A. I don't understand the question.</p> <p>7 Q. Do you believe that the statement that I</p> <p>8 just read to you, the UFC and Pride are the top two</p> <p>9 MMA brand -- brands in the world -- excuse me -- by</p> <p>10 most -- by most metrics, and management believes that</p> <p>11 the WEC will be the third by 2008, do you believe</p> <p>12 that that's an accurate statement?</p> <p>13 MR. ISAACSON: Same objection.</p> <p>14 A. I believe that that is what they thought.</p> <p>15 Q. Well, do you have a basis to dispute that</p> <p>16 the UFC and Pride, in or about May 2007, were the top</p> <p>17 two MMA brands in the world by most metrics?</p> <p>18 A. I do not dispute that.</p> <p>19 Q. You agree with that?</p> <p>20 A. Yes.</p> <p>21 Q. And it's fair to say that the UFC bought</p> <p>22 Pride at some point in 2007 or 2008; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Can you turn to Zuffa 6737 in the bottom</p> <p>25 right. The last sentence on the page says: "The</p>	<p style="text-align: right;">41</p> <p>1 SILVA</p> <p>2 Q. Well, in or about 2007, wouldn't you agree</p> <p>3 that Zuffa, after its acquisition of Pride, had the</p> <p>4 vast majority of the world's top fighters under its</p> <p>5 umbrella?</p> <p>6 A. I would say we had the most, but not all.</p> <p>7 As you see that even after that acquisition,</p> <p>8 we continued to bring in other fighters from other</p> <p>9 places in the world. If we'd already acquired all</p> <p>10 the best fighters, then no more acquisitions would be</p> <p>11 necessary.</p> <p>12 Q. So one of the things that Zuffa tries to do</p> <p>13 with its acquisitions is acquire top fighters from</p> <p>14 around the world; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Why?</p> <p>17 A. Because fans would like to see the best</p> <p>18 fighters.</p> <p>19 Q. Why do fans want to see the best fighters?</p> <p>20 MR. ISAACSON: Objection to form.</p> <p>21 A. Why do they want to find out who the best</p> <p>22 basketball player is or baseball player or football</p> <p>23 player? That's the appeal of sports.</p> <p>24 Q. So one of the things that you tried to do</p> <p>25 while you were at Zuffa was bring in the big names;</p>

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<p style="text-align: right;">42</p> <p>1 SILVA</p> <p>2 is that fair?</p> <p>3 MR. ISAACSON: Objection. Foundation.</p> <p>4 A. No, it --</p> <p>5 Q. Well, let me -- let me back -- you weren't</p> <p>6 finished. Go ahead.</p> <p>7 A. Yeah. I would not say it's about bringing</p> <p>8 in the big names, because if you'd only fought in</p> <p>9 Japan, you were not a big name to anybody in the</p> <p>10 United States. What I tried to do was bring in the</p> <p>11 best talent that I could find, and if -- if they were</p> <p>12 truly worthy talent, then they -- they hopefully</p> <p>13 would become big names.</p> <p>14 Q. Right. So you're trying either to bring in</p> <p>15 big names or create big names?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And, for example, with respect to</p> <p>18 basketball, it's a star -- would you agree with the</p> <p>19 statement that it's a star-driven league?</p> <p>20 MR. ISAACSON: Objection to form.</p> <p>21 Foundation.</p> <p>22 Q. For example, the big stars are what drives</p> <p>23 people -- LeBron James, Steph Curry, those are the</p> <p>24 people that drive the vast majority of eyeballs to</p> <p>25 watch the NBA; correct?</p>	<p style="text-align: right;">44</p> <p>1 SILVA</p> <p>2 There was fighters who came outside of that</p> <p>3 who beat those fighters, so it could have been some</p> <p>4 people's opinions that those were the best fighters,</p> <p>5 but it was not necessarily proven so.</p> <p>6 Q. Was it your opinion at the time --</p> <p>7 A. No.</p> <p>8 Q. -- in 2007 --</p> <p>9 A. I tend to be very skeptical.</p> <p>10 Q. Okay. But was it -- but was it the opinion</p> <p>11 of, say, in your understanding of Dana or Lorenzo</p> <p>12 Fertitta that in or about 2007 Zuffa had under its</p> <p>13 umbrella the world's top -- the vast majority of the</p> <p>14 world's top fighters?</p> <p>15 MR. ISAACSON: Objection. Form.</p> <p>16 Foundation.</p> <p>17 A. In their opinion, possibly. You'd have to</p> <p>18 ask them for their opinion.</p> <p>19 Q. Well, they must have told you.</p> <p>20 Dana must have said, yeah, we have the vast</p> <p>21 majority of the world's top fighters, at some</p> <p>22 point --</p> <p>23 A. That's not --</p> <p>24 MR. ISAACSON: Object --</p> <p>25 A. -- the kind of thing you would normally --</p>
<p style="text-align: right;">43</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection to form.</p> <p>3 Foundation. Calls for opinion.</p> <p>4 A. Yeah, I can't speak to basketball. The only</p> <p>5 sport that I watch are fighting sports.</p> <p>6 Q. But you just named other sports --</p> <p>7 A. But there are names that I am aware of.</p> <p>8 Q. Right. And one of the things that you're</p> <p>9 looking to do in building a roster of talented</p> <p>10 fighters is to -- is to -- is to find the top</p> <p>11 fighters in order to put on events that are going to</p> <p>12 grab eyeballs and attention; correct?</p> <p>13 A. Yes.</p> <p>14 Q. And this statement doesn't say all of the</p> <p>15 world's top fighters, it says the vast majority of</p> <p>16 the world's top fighters, that Deutsche Bank with</p> <p>17 Zuffa's assistance is -- is putting out there in the</p> <p>18 world.</p> <p>19 Would you agree that in or about 2007, after</p> <p>20 the acquisition of Pride, that Zuffa at that time had</p> <p>21 the vast majority of the world's top fighters under</p> <p>22 one umbrella?</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 A. Yeah, the hard part of that, I think, is</p> <p>25 it's just opinion.</p>	<p style="text-align: right;">45</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Object -- objection.</p> <p>3 Argumentative.</p> <p>4 MR. CRAMER: He answered the question.</p> <p>5 It's fine.</p> <p>6 Q. They would -- he wouldn't normally say that</p> <p>7 to you?</p> <p>8 A. It would be kind of strange just to walk</p> <p>9 through pronouncing that we have the majority of the</p> <p>10 world's top fighters.</p> <p>11 Q. So he might have said that publicly;</p> <p>12 correct?</p> <p>13 A. You'd have to --</p> <p>14 MR. ISAACSON: Objection. Calls for</p> <p>15 speculation.</p> <p>16 Q. You've never seen Dana White say that the</p> <p>17 UFC has, in -- in form or substance, the vast</p> <p>18 majority of the world's top fighters publicly?</p> <p>19 A. Dana says a lot of things.</p> <p>20 Q. And you've never seen him say that among</p> <p>21 those things that he says publicly?</p> <p>22 A. I don't recall that exact quote.</p> <p>23 Q. Not exact quote.</p> <p>24 In sum or substance, that the UFC has the</p> <p>25 vast majority of the top MMA talent in the world at</p>

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<p style="text-align: right;">46</p> <p>1 SILVA</p> <p>2 any time?</p> <p>3 A. I think that's open to interpretation.</p> <p>4 Q. I know, but I'm asking what Dana -- I'll</p> <p>5 move on.</p> <p>6 A. Okay.</p> <p>7 Q. Turn to page 6738. Under the top where it</p> <p>8 says, "High barriers to entry."</p> <p>9 And the first sentence says: "Over the past</p> <p>10 year, the UFC has achieved unprecedented scale in the</p> <p>11 MMA world through internal growth, strategic</p> <p>12 marketing and timely acquisitions. The UFC is able</p> <p>13 to secure long-term exclusive contracts with the</p> <p>14 world's best MMA fighters because of its ability to</p> <p>15 pay fighters more than competing organizations as</p> <p>16 well as offer fighters significantly more exposure</p> <p>17 that they can monetize through better sponsorship</p> <p>18 agreements, appearance fees and merchandising</p> <p>19 opportunities."</p> <p>20 Do you see that?</p> <p>21 A. Yep.</p> <p>22 Q. Is there anything that I just read to you</p> <p>23 that you disagree with?</p> <p>24 MR. ISAACSON: Objection to form.</p> <p>25 A. Could you rephrase the question, I think?</p>	<p style="text-align: right;">48</p> <p>1 SILVA</p> <p>2 Do you think that -- you think that more</p> <p>3 than 50 percent of the world's best MMA fighters in</p> <p>4 2007 were fighting somewhere else?</p> <p>5 A. It's a big world.</p> <p>6 Q. It's a big world, it's true.</p> <p>7 And you think that the majority of the --</p> <p>8 I'm talking about the top, the world's best MMA</p> <p>9 fighters, the people at the top of their game.</p> <p>10 And your testimony is that you don't know</p> <p>11 whether more than 50 percent of the top fighters in</p> <p>12 or about 2007 or 2008 were at the UFC?</p> <p>13 A. That's why I said, I think we had many.</p> <p>14 Q. But not most?</p> <p>15 A. Are you saying the most in the world or more</p> <p>16 than any other organization? Could you be more</p> <p>17 clear?</p> <p>18 Q. All right. More than any other</p> <p>19 organization; would you agree with me there?</p> <p>20 A. At the moment, yes.</p> <p>21 Q. In 2007 to 2008?</p> <p>22 A. Yeah.</p> <p>23 Q. Who was the next MMA promotion after the UFC</p> <p>24 that in your mind at that time had the most, after</p> <p>25 the UFC, top MMA fighters?</p>
<p style="text-align: right;">47</p> <p>1 SILVA</p> <p>2 Q. Yeah. Is there anything -- well, I will</p> <p>3 rephrase.</p> <p>4 Let's -- let's focus on the second sentence:</p> <p>5 "The UFC is able to secure long-term exclusive</p> <p>6 contracts with the world's best MMA fighters."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Is -- is that an accurate statement, that in</p> <p>10 or about 2007, the UFC was able to secure long-term</p> <p>11 exclusive contracts with the world's best MMA</p> <p>12 fighters?</p> <p>13 A. I would say with many of the world's best</p> <p>14 fighters. There's examples of ones that were not.</p> <p>15 Q. Right. But many of them?</p> <p>16 A. Say Fada was considered to be the best</p> <p>17 fighter in the world, we never had a contract with</p> <p>18 him.</p> <p>19 Q. Emelianenko?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Would you agree with me that the UFC</p> <p>22 was able to secure long-term exclusive contracts with</p> <p>23 most of the world's best MMA fighters?</p> <p>24 A. I would say with many.</p> <p>25 Q. Not most?</p>	<p style="text-align: right;">49</p> <p>1 SILVA</p> <p>2 A. I'm really bad with time placement as far as</p> <p>3 there, but there's always -- since the original UFC,</p> <p>4 there's always been competitors who have outbid us</p> <p>5 for name fighters since the very beginning, whether</p> <p>6 it was Extreme Fighting or World Combat Championships</p> <p>7 or Martial Arts Reality Superfighting. Later on, you</p> <p>8 had, like, the Affliction show, you had Strikeforce,</p> <p>9 you had many, many other MMA organizations that --</p> <p>10 Q. So --</p> <p>11 A. -- bid top dollar on high-level fighters.</p> <p>12 Q. You -- you mentioned Affliction and</p> <p>13 Strikeforce. Anybody else? Bellator?</p> <p>14 A. Bellator.</p> <p>15 Q. Who else? Pride?</p> <p>16 A. Certainly Pride. Even ones that were not</p> <p>17 considered as big. There's an organization in Japan</p> <p>18 called Shooto that had what all the critics thought</p> <p>19 were the best lighter weight fighters in the world.</p> <p>20 Q. Anybody else?</p> <p>21 A. There's just --</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 A. -- numerous.</p> <p>24 Q. So the UFC bought Pride; right?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">50</p> <p>1 SILVA</p> <p>2 Q. And the UFC bought -- or merged with</p> <p>3 Strikeforce in or about 2010; right?</p> <p>4 A. Yes.</p> <p>5 Q. And the UFC -- and Affliction went out of</p> <p>6 business; correct?</p> <p>7 A. Yes.</p> <p>8 Q. They now just sell clothing; correct?</p> <p>9 A. (Nods head up and down.)</p> <p>10 Q. What about the first three that you</p> <p>11 mentioned, World -- I'm sorry, I didn't write it</p> <p>12 down.</p> <p>13 A. World Combat Championships.</p> <p>14 Q. Is that still in business?</p> <p>15 A. No. That went away.</p> <p>16 Q. That went away. When did that go away?</p> <p>17 A. Early on.</p> <p>18 Q. What about Martial Arts --</p> <p>19 A. Reality Superfighting.</p> <p>20 Q. That's not in business anymore, is it?</p> <p>21 A. No.</p> <p>22 Q. When did that go out of business?</p> <p>23 A. Early on.</p> <p>24 Q. And Shooto, is that still in business?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">52</p> <p>1 SILVA</p> <p>2 Q. In other words, UFC acquired more top talent</p> <p>3 by the acquisition of Pride; correct?</p> <p>4 MR. ISAACSON: Objection to form.</p> <p>5 A. I think there were -- there was positive</p> <p>6 things to it, but to the majority of American fans,</p> <p>7 Pride was a Japanese organization. The majority of</p> <p>8 American fans did not know what Pride was. So it --</p> <p>9 it's good to bolster the roster with good talent. As</p> <p>10 far as what that did to the status of the UFC with</p> <p>11 American fans, I don't know.</p> <p>12 Q. So in your opinion, American fans are, all</p> <p>13 things equal, more interested in fighters that are</p> <p>14 known to Americans?</p> <p>15 MR. ISAACSON: Objection to request for</p> <p>16 opinion.</p> <p>17 A. Yeah, I think that's wherever you're at. I</p> <p>18 think in Japan they're more interested in fighters</p> <p>19 who fight in Japan. You're interested in who you're</p> <p>20 familiar with --</p> <p>21 Q. Right.</p> <p>22 A. -- until you become familiar with them.</p> <p>23 Q. So until the popularity of a particular</p> <p>24 foreign fighter gets known in the United States,</p> <p>25 they're -- they're less valuable as a fighter to a</p>
<p style="text-align: right;">51</p> <p>1 SILVA</p> <p>2 Q. And Bellator is still in business?</p> <p>3 A. Yes.</p> <p>4 Q. So anybody else -- any other MMA promotions</p> <p>5 that in your mind competed with the UFC for top</p> <p>6 talent?</p> <p>7 A. Yeah. I mean, there's still -- there's --</p> <p>8 MR. ISAACSON: Objection to form.</p> <p>9 Q. Go ahead.</p> <p>10 A. -- tons around the world. There's things</p> <p>11 like KSW in Poland who had some top fighters who are</p> <p>12 big draws for them. There's shows in Asia, like IFC,</p> <p>13 that have a lot of excellent lighter weight talent.</p> <p>14 There's just -- every day another show seems to pop</p> <p>15 up.</p> <p>16 Q. Would you agree with me during -- that</p> <p>17 from 2000 -- at least from 2007 to the present, the</p> <p>18 UFC had more of the top talent than any one of these</p> <p>19 entities; is that fair?</p> <p>20 A. In my opinion, yes.</p> <p>21 Q. And would you agree with me that the UFC's</p> <p>22 relative stature to all of these other entities</p> <p>23 changed in the UFC's favor when the UFC bought Pride,</p> <p>24 for example?</p> <p>25 MR. ISAACSON: Objection to form.</p>	<p style="text-align: right;">53</p> <p>1 SILVA</p> <p>2 U.S. organization; is that fair?</p> <p>3 A. People will dispute what is valuable. If</p> <p>4 you're talking in terms of making an immediate</p> <p>5 financial impact, maybe not so much. But if you just</p> <p>6 believe in their talent and that one day they'd be a</p> <p>7 champion, then it's valuable.</p> <p>8 Q. Right. So over --</p> <p>9 A. There's different ways to look at it.</p> <p>10 Q. So over time, if you -- if Zuffa acquires a</p> <p>11 foreign entity with a number of unknown but talented</p> <p>12 foreign stars, that could, over time, develop into a</p> <p>13 very popular roster of fighters, but at least</p> <p>14 initially it might not be so in the United States; is</p> <p>15 that fair?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. Yeah, there's no guarantee. And we've had</p> <p>18 big champion stars come out of very small regional</p> <p>19 unknown promotions.</p> <p>20 Who actually rises to the top or not is one</p> <p>21 of the fascinating things in this sport. And I wish</p> <p>22 that I could say that I knew for sure who those would</p> <p>23 be. It would have made my life, my job a lot easier.</p> <p>24 But you just don't. All you can do is give people an</p> <p>25 opportunity, and -- and some will succeed really well</p>

<p style="text-align: right;">54</p> <p>1 SILVA</p> <p>2 and some will not.</p> <p>3 Q. But there is a -- I -- I take it from your</p> <p>4 testimony that there is a substantial geographic</p> <p>5 nature to the -- to the fight business, and that</p> <p>6 fighters that are -- tend to be popular and known,</p> <p>7 say, in Japan, might not necessarily be popular and</p> <p>8 known in the United States; is that fair?</p> <p>9 MR. ISAACSON: Objection to form. Calls</p> <p>10 for opinion.</p> <p>11 A. I think it's just kind of common sense that</p> <p>12 people tend to identify more with people that they</p> <p>13 relate to; that if you're going to do a show in</p> <p>14 Brazil, you probably should have some Brazilians on</p> <p>15 it.</p> <p>16 Q. And if you do a show in the United States,</p> <p>17 you're more likely to be successful, in your view, if</p> <p>18 you have fighters that are known to the U.S.</p> <p>19 audience; is that fair?</p> <p>20 A. I would say the United States is a bit</p> <p>21 different in that it's more of a -- a melting pot.</p> <p>22 Q. But you said before that if you just bring</p> <p>23 in a bunch of fighters from Pride that are in Japan,</p> <p>24 it's going to take a little bit more time for them to</p> <p>25 be popular and known in the U.S. audience; is that</p>	<p style="text-align: right;">56</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection. Foundation.</p> <p>3 A. Yeah, could you be more specific? Because I</p> <p>4 disagree with the -- the statement.</p> <p>5 Q. Okay. Please turn to page Zuffa 6751, it's</p> <p>6 page 28 of the document. At the bottom of the page</p> <p>7 under "Talent recruitment and development" -- well,</p> <p>8 if you look, actually, in the box, there's a blue box</p> <p>9 in the middle of the page entitled "Talent</p> <p>10 recruitment and development."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And the second bullet point says:</p> <p>14 "Aggressive lateral hiring from and acquisition of</p> <p>15 competitors."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Is that a fair description of what Zuffa was</p> <p>19 doing in or about 2007 or 2008?</p> <p>20 MR. ISAACSON: Objection. Form.</p> <p>21 Foundation.</p> <p>22 A. The -- yeah, we tried to get the best</p> <p>23 fighters in the world.</p> <p>24 Q. And you tried to get them signed up to</p> <p>25 long-term exclusive contracts, like it says in the</p>
<p style="text-align: right;">55</p> <p>1 SILVA</p> <p>2 fair?</p> <p>3 A. Well, the -- the hard thing is if you</p> <p>4 brought in one person, you could put a spotlight on</p> <p>5 that one person, so it -- it would be easier to pay</p> <p>6 attention to them. If you bring a bunch of people</p> <p>7 over, that spotlight is dissipated, so it could be</p> <p>8 harder to spotlight them all. So there's -- there's</p> <p>9 always pluses and minuses.</p> <p>10 Q. Okay. Fair enough.</p> <p>11 Will you turn to the bottom of the page we</p> <p>12 were looking at in Silva Exhibit 1. It says: "In</p> <p>13 summary, to effectively compete with the UFC, a</p> <p>14 competitor would need proper infrastructure,</p> <p>15 substantial content to market upcoming fights,</p> <p>16 effective television distribution, a deep line-up of</p> <p>17 marquee fighters and adequate resources to satisfy</p> <p>18 the costs of a UFC-level production."</p> <p>19 Do you see that?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Do you agree with that?</p> <p>22 A. No.</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 Q. Do you know what is meant by "a deep line-up</p> <p>25 of marquee fighters"?</p>	<p style="text-align: right;">57</p> <p>1 SILVA</p> <p>2 second bullet point there; is that fair?</p> <p>3 A. A lot of fighters are signed to four-fight</p> <p>4 contracts. I would say more are signed to four-fight</p> <p>5 contracts than longer than that.</p> <p>6 Q. And they're exclusive; correct?</p> <p>7 A. Yes.</p> <p>8 Q. If you look to the section of the document</p> <p>9 under "Talent recruitment and development," the</p> <p>10 fourth sentence begins: "UFC athlete."</p> <p>11 "UFC athlete contracts are designed to</p> <p>12 retain talent within the Company."</p> <p>13 Do you see that?</p> <p>14 A. Uh-huh.</p> <p>15 Q. So --</p> <p>16 A. Yeah, I see it.</p> <p>17 Q. Yeah. Okay.</p> <p>18 "UFC athlete contracts are designed to</p> <p>19 retain talent within the Company."</p> <p>20 Do you agree with that?</p> <p>21 A. I would say for the period of the contract,</p> <p>22 yes.</p> <p>23 Q. And then it says: "Most contracts" -- and</p> <p>24 this is in 2007 to 2008 -- "most contracts are one to</p> <p>25 two years in length, with an exclusivity clause that</p>

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<p style="text-align: right;">58</p> <p>1 SILVA</p> <p>2 prevents fighters from moving to different MMA</p> <p>3 organizations while under contract and with</p> <p>4 negotiation and matching rights after the agreement</p> <p>5 expires."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you agree with that?</p> <p>9 A. Yes.</p> <p>10 Q. And then it says: "Additionally, contracts</p> <p>11 typically give the UFC the right to release athletes</p> <p>12 after one or two fights on the basis of poor</p> <p>13 performance, providing the Company with increased" --</p> <p>14 I'm sorry -- "providing the Company increased</p> <p>15 flexibility."</p> <p>16 Do you agree with that?</p> <p>17 MR. ISAACSON: Objection. Form.</p> <p>18 Foundation.</p> <p>19 A. Yes.</p> <p>20 Q. Then it says: "Furthermore, the UFC</p> <p>21 typically has the right to retain athletes who hold</p> <p>22 the championship title in any weight class at the</p> <p>23 expiration of their contract for one additional year,</p> <p>24 thereby ensuring that the Company continues to</p> <p>25 benefit from such a fighter's potential popularity</p>	<p style="text-align: right;">60</p> <p>1 SILVA</p> <p>2 deposition.</p> <p>3 A. Yeah.</p> <p>4 Q. Turn to the next page, at the top of the</p> <p>5 page. It says: "Recently Zuffa has acquired the</p> <p>6 assets of several competing MMA brands, including</p> <p>7 Pride, WEC and WFA. Each acquisition had unique</p> <p>8 offensive and defensive purposes at the time; however</p> <p>9 both the WFA and Pride (pending) transactions</p> <p>10 resulted in Zuffa's roster of elite fighters</p> <p>11 expanding significantly."</p> <p>12 Do you agree with that?</p> <p>13 MR. ISAACSON: Objection. Form.</p> <p>14 Foundation.</p> <p>15 A. I think that it increased our roster. I</p> <p>16 think that there were better fighters on the Pride</p> <p>17 roster than the WFA roster.</p> <p>18 Q. So -- but collectively, the acquisition of</p> <p>19 WFA and Pride, you would agree, resulted in Zuffa's</p> <p>20 roster of elite fighters expanding significantly;</p> <p>21 right?</p> <p>22 A. It expanded.</p> <p>23 Q. Significantly; right?</p> <p>24 A. I don't know that I'd say significantly. It</p> <p>25 definitely expanded. We got some good fighters out</p>
<p style="text-align: right;">59</p> <p>1 SILVA</p> <p>2 through additional promotions and events."</p> <p>3 Do you agree with that?</p> <p>4 A. Yes.</p> <p>5 Q. Then it says: "The UFC's complete control</p> <p>6 and ownership of its content also discourages</p> <p>7 competing organizations from soliciting UFC fighters</p> <p>8 by restricting their ability to market prior fights</p> <p>9 for promotional purposes."</p> <p>10 Is that fair? Do you agree with that?</p> <p>11 MR. ISAACSON: Objection to form.</p> <p>12 Foundation.</p> <p>13 A. Yes.</p> <p>14 Q. Then it says: "Notably, only one marquee</p> <p>15 fighter has ever defected from the UFC to a competing</p> <p>16 MMA organization and that individual later returned</p> <p>17 to compete in the UFC."</p> <p>18 As of the date of that statement, is that</p> <p>19 accurate to your knowledge?</p> <p>20 A. To my knowledge, yes.</p> <p>21 Q. Do you know who that fighter was?</p> <p>22 A. I'm guessing it was B.J. Penn.</p> <p>23 Q. B.J. Penn. And he left and then came back?</p> <p>24 A. Correct.</p> <p>25 Q. You mentioned that at the beginning of the</p>	<p style="text-align: right;">61</p> <p>1 SILVA</p> <p>2 of it.</p> <p>3 Q. What are elite fighters in your -- how would</p> <p>4 you understand that term?</p> <p>5 A. It becomes about opinion. And for me, being</p> <p>6 kind of a purist, you -- you have what the general</p> <p>7 public looks at, and they go this, I think that these</p> <p>8 guys are great.</p> <p>9 There may have been talent in other</p> <p>10 organizations, like I said, the one that I had</p> <p>11 mentioned, Shooto, that had -- even though they're a</p> <p>12 bit more under the radar, I was much more impressed</p> <p>13 with their talent than I was with a lot of</p> <p>14 better-known fighters in these other organizations.</p> <p>15 But people simply didn't do that research. They were</p> <p>16 not aware of them. So that's what I'm saying.</p> <p>17 I'm not being disingenuous. I really felt</p> <p>18 that there was talent that was overlooked. That</p> <p>19 here's the -- the fighters that people are making a</p> <p>20 big deal about, but I did not necessarily agree that</p> <p>21 they were that good, where I thought there were good</p> <p>22 fighters that may have been going under people's</p> <p>23 radar.</p> <p>24 Q. There were diamonds in the rough that you</p> <p>25 had identified and wanted to bring to the UFC?</p>

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<p style="text-align: right;">74</p> <p>1 SILVA</p> <p>2 think that when you're introducing fighters to -- to</p> <p>3 people, they have no idea what their level of talent</p> <p>4 is.</p> <p>5 Competing amongst themselves, you can have</p> <p>6 people who look amazing. Bellator now has a fighter,</p> <p>7 Michael Page, who's looked like a superstar, did not</p> <p>8 look good in his last fight when they stepped up the</p> <p>9 competition a bit, but before that, everybody's like</p> <p>10 this kid will beat everybody in the UFC. And it's</p> <p>11 like, based on what? But people like to sway</p> <p>12 people's opinion on to who is good or not, it's not</p> <p>13 that difficult.</p> <p>14 Q. When you were just recounting that people</p> <p>15 were saying that Page would beat everyone in the UFC,</p> <p>16 you said, based on what. I take it that you were</p> <p>17 skeptical of those statements?</p> <p>18 A. I'm just skeptical of everything. I'm</p> <p>19 skeptical of things we do. I -- that's just my</p> <p>20 nature. Whenever somebody says, I know this is</p> <p>21 what's going to happen, it's just like, how do you</p> <p>22 know. You just see enough sure things not come true</p> <p>23 that, yeah, I don't see any of them as a guarantee.</p> <p>24 MR. CRAMER: All right. You can put that</p> <p>25 aside. I'd like to mark Silva Exhibit 3 as</p>	<p style="text-align: right;">76</p> <p>1 SILVA</p> <p>2 statement as of February of 2013?</p> <p>3 MR. ISAACSON: Objection to form.</p> <p>4 A. Yeah, it's -- I would quibble with just</p> <p>5 the -- the wording of "vast majority," but certainly</p> <p>6 a majority.</p> <p>7 Q. A majority of the top fighters in the world</p> <p>8 under long-term contract with Zuffa in February of</p> <p>9 2013. You would agree with that; correct?</p> <p>10 A. I would disagree with "vast" and I would</p> <p>11 disagree with "long-term." But then that just</p> <p>12 becomes what do you consider long-term or not.</p> <p>13 Q. Okay. We can talk about that in a bit.</p> <p>14 But they had the majority as of February</p> <p>15 of 2013, in your view, while you were there, the UFC</p> <p>16 had the majority of the top fighters of the world</p> <p>17 under exclusive contract; you would agree with that?</p> <p>18 A. Of, yes, perceived top fighters.</p> <p>19 Q. Turn to page 32, which is the Bates</p> <p>20 number 6286. At the top of the page under</p> <p>21 "Athletes," the document says -- Deutsche Bank and</p> <p>22 Zuffa are representing to investors that: "UFC is</p> <p>23 home to the best MMA athletes in the world and is the</p> <p>24 coveted destination for all fighters."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">75</p> <p>1 SILVA</p> <p>2 the next document.</p> <p>3 (Silva Deposition Exhibit 3 marked for</p> <p>4 identification.)</p> <p>5 Q. Silva Exhibit 3 is the third in this set of</p> <p>6 Deutsche Bank Confidential information memoranda,</p> <p>7 it's dated February of 2013, it bears the Bates range</p> <p>8 DB-ZUFFA 6237 through 6313.</p> <p>9 And I take it you have not seen this</p> <p>10 document?</p> <p>11 A. No.</p> <p>12 Q. You have not seen it. Okay.</p> <p>13 I just want to draw your attention to</p> <p>14 page 13, which is Bates number 6267.</p> <p>15 At the bottom of the page the document is --</p> <p>16 the document says: "Creating value for partners</p> <p>17 through superior content."</p> <p>18 And underneath that, it says: "UFC's</p> <p>19 content is highly distinguishable from competitors</p> <p>20 due to a number of factors, including," and I'd just</p> <p>21 like to draw your attention to number 4, repeat</p> <p>22 something we've seen in some of these other</p> <p>23 documents, it says, "the long-term contracts with the</p> <p>24 vast majority of top fighters in the world."</p> <p>25 Would you agree that that's an accurate</p>	<p style="text-align: right;">77</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Do you agree with that?</p> <p>4 A. Could you repeat, please?</p> <p>5 Q. Sure. Well, let -- let's break it up.</p> <p>6 You would agree that the UFC is the home to</p> <p>7 the best MMA athletes in the world; correct?</p> <p>8 A. To many of the best athletes in the world.</p> <p>9 Q. In the world. Okay.</p> <p>10 And would you also agree that it's generally</p> <p>11 the coveted destination for all of the -- or most of</p> <p>12 the MMA fighters?</p> <p>13 A. Say for many of them.</p> <p>14 Q. Not most?</p> <p>15 A. There -- I mean, there's a certain amount of</p> <p>16 people who have come out and -- and said that they --</p> <p>17 there's other organizations that they want to be a</p> <p>18 part of. So I can't say most, but I would say many.</p> <p>19 Q. Okay. The third sentence begins: "All UFC</p> <p>20 fighters have previous combat sports experience and</p> <p>21 many are NCAA collegiate athletes, All-American</p> <p>22 wrestlers, world champions and Olympic competitors</p> <p>23 and medalists."</p> <p>24 Is that accurate?</p> <p>25 A. Mostly.</p>

<p style="text-align: right;">78</p> <p>1 SILVA</p> <p>2 Q. What's not accurate about it?</p> <p>3 A. There have been a few exceptions. If it's</p> <p>4 C.M. Punk or -- or somebody who did not have a, you</p> <p>5 know, professional sports background.</p> <p>6 Q. But most do?</p> <p>7 A. Most do.</p> <p>8 Q. Okay. And then the next sentence says:</p> <p>9 "All athletes are under long-term, exclusive</p> <p>10 contracts which provide a major competitive advantage</p> <p>11 for the UFC."</p> <p>12 With your quibble about long-term, would you</p> <p>13 agree that all UFC athletes are under exclusive</p> <p>14 contracts?</p> <p>15 A. Yes.</p> <p>16 Q. And would you also agree that that provides</p> <p>17 a competitive advantage for the UFC over its MMA --</p> <p>18 other MMA promotions?</p> <p>19 A. All the major MMA promotions have exclusive</p> <p>20 contracts.</p> <p>21 Q. But the fact that the UFC has the majority</p> <p>22 of them gives the UFC an advantage over MMA</p> <p>23 promotions that don't have the same depth of top</p> <p>24 talent; correct?</p> <p>25 A. No.</p>	<p style="text-align: right;">80</p> <p>1 SILVA</p> <p>2 commissioner of the UFC, Jeff Blatnick, and referee</p> <p>3 John McCarthy to develop the sport's first rule book?</p> <p>4 A. Yes.</p> <p>5 Q. And what was your involvement in that, in</p> <p>6 the creation of that rule book?</p> <p>7 A. We were asked by Bob Marwitz -- we -- we had</p> <p>8 all along kind of given our suggestions, and it kind</p> <p>9 of evolved on a show-by-show basis, like, things</p> <p>10 would happen, it's like, oh, Tank Abbott tried to</p> <p>11 throw a guy over the cage, okay, you can't throw</p> <p>12 people over the cage. It was -- it was such a new</p> <p>13 sport and people had not experienced that, so a lot</p> <p>14 of stuff you just didn't think about until it</p> <p>15 actually happened.</p> <p>16 So as shows went on, eventually we had</p> <p>17 enough of these ideas, like why don't we actually</p> <p>18 form like a committee and -- and really try and nail</p> <p>19 this down.</p> <p>20 Q. And you succeeded to some degree putting</p> <p>21 together a book that had procedures and codes of</p> <p>22 conduct and many of those rules?</p> <p>23 A. Yes.</p> <p>24 Q. And many of those rules are still in</p> <p>25 existence today; is that fair?</p>
<p style="text-align: right;">79</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection to form.</p> <p>3 Q. It doesn't?</p> <p>4 A. No.</p> <p>5 Q. All right. You can put that document aside.</p> <p>6 MR. CRAMER: We've been going for a little</p> <p>7 while. Why don't we take a break.</p> <p>8 THE VIDEOGRAPHER: We're off the record at</p> <p>9 9:29.</p> <p>10 (Recess taken at 9:29 a m., proceedings</p> <p>11 resumed at 9:40 a m.)</p> <p>12 THE VIDEOGRAPHER: Here begins Media</p> <p>13 Number 2 in the video-recorded deposition of</p> <p>14 Joseph Silva. We're back on the record at</p> <p>15 9:40.</p> <p>16 BY MR. CRAMER:</p> <p>17 Q. Mr. Silva, is it fair to say that when you</p> <p>18 first became involved with the UFC in the early '90s</p> <p>19 or mid '90s, the sport of mixed martial arts was not</p> <p>20 well regulated?</p> <p>21 A. Yes.</p> <p>22 Q. There were no formal rules at that time?</p> <p>23 A. There were rules, they were just very few.</p> <p>24 Q. And at some point between '94 and 2001, is</p> <p>25 it fair to say that you worked with the former</p>	<p style="text-align: right;">81</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. When you say "the cage," that was in</p> <p>4 existence in '94 to 2001?</p> <p>5 A. Yes, the octagon.</p> <p>6 Q. The octagon was in existence from '94 to</p> <p>7 2001. Who came up with that idea?</p> <p>8 A. It was -- it's in dispute who -- who came</p> <p>9 up. There's a lot of different histories written.</p> <p>10 Was it somebody in production at SEG -- everybody's</p> <p>11 kind of trying to take credit for it, and I don't</p> <p>12 know. I started with the UFC after the first one,</p> <p>13 and it was there from first, so I don't really know.</p> <p>14 Q. So it existed before Zuffa purchased the</p> <p>15 UFC?</p> <p>16 A. Yes.</p> <p>17 Q. Did you work with Mr. Marwitz on that rule</p> <p>18 book?</p> <p>19 A. No.</p> <p>20 Q. What was his role?</p> <p>21 A. He was the owner of SEG.</p> <p>22 Q. So he asked you to work on that rule book?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And he was the owner of Semaphore</p> <p>25 Entertainment Group?</p>

<p style="text-align: right;">82</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And was SEG the first to get the UFC</p> <p>4 on Pay-Per-View? Was it on Pay-Per-View at some</p> <p>5 point --</p> <p>6 A. Yes.</p> <p>7 Q. -- between '94 and 2001?</p> <p>8 A. It was -- from the very first, it was a</p> <p>9 Pay-Per-View.</p> <p>10 Q. Do you know what Mr. Marwitz's role at that</p> <p>11 time was in trying to push for regulation of the</p> <p>12 sport?</p> <p>13 What was he doing at that time?</p> <p>14 A. The push for regulation did not come until</p> <p>15 later. It's my opinion -- they kind of stumbled upon</p> <p>16 this idea, and I don't know, everybody kind of has</p> <p>17 revisionist history, everybody involved with it kind</p> <p>18 of like it was all me, it was all my idea.</p> <p>19 It just seemed like they came across this</p> <p>20 cool concept, figured let's give it a shot, it did</p> <p>21 well, all right, let's do more. And -- and then as</p> <p>22 it continued to grow, it's like, oh, this is actually</p> <p>23 a long-time viable thing, and -- and that's when you</p> <p>24 had to start looking at it more, well, we're going to</p> <p>25 have to tighten this up.</p>	<p style="text-align: right;">84</p> <p>1 SILVA</p> <p>2 A. That's correct.</p> <p>3 Q. I think you'd used the term "matchmaking" as</p> <p>4 that term is used in MMA. Can you just describe in</p> <p>5 your own words as a matchmaker what that is?</p> <p>6 A. Yeah, it's kind of a shorthand, it's not my</p> <p>7 actual title. But if you say to somebody, this is</p> <p>8 our vice president of talent relations, it's like</p> <p>9 what does that mean, what do you do? It's like, oh,</p> <p>10 you know, the fights? Yeah. He -- he put those</p> <p>11 together.</p> <p>12 So it's just -- it's kind of a shorthand. A</p> <p>13 lot of people ask me if I set up dates or things like</p> <p>14 that --</p> <p>15 Q. Right.</p> <p>16 A. -- it's not.</p> <p>17 Q. Yeah. Right. You're not Love Connection.</p> <p>18 A. No, I am not.</p> <p>19 Q. Prior to the UFC's merger with the WEC in or</p> <p>20 about 2006, you handled the matchmaking</p> <p>21 responsibilities for all of the weight classes; is</p> <p>22 that right?</p> <p>23 A. I'm sorry, state the time again.</p> <p>24 Q. Yeah. Prior to the merger with the WEC in</p> <p>25 2006 --</p>
<p style="text-align: right;">83</p> <p>1 SILVA</p> <p>2 Q. And that description, is that an apt</p> <p>3 description of what was going on between '94 and</p> <p>4 2001?</p> <p>5 MR. ISAACSON: Objection to form.</p> <p>6 A. I'm not -- I don't understand.</p> <p>7 Q. Well, you just described they came upon an</p> <p>8 idea, and you -- you told a little bit of a story</p> <p>9 about how that idea developed and --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- became successful. And I'm asking</p> <p>12 whether that description you just gave applied to the</p> <p>13 UFC at the period before Zuffa purchased UFC or after</p> <p>14 or both?</p> <p>15 A. I think it's continually evolved. I think</p> <p>16 it's still evolving to this day. Relative to other</p> <p>17 sports, the UFC is incredibly young, to have been</p> <p>18 around 22 years or whatever it's been. It -- it's</p> <p>19 not very long as compared to boxing or football or</p> <p>20 basketball or anything. So there's still a lot of</p> <p>21 learning to be done and -- and better ways to do it.</p> <p>22 Q. Right. What I'm trying to get at is the</p> <p>23 basic idea for the sport and the octagon and the</p> <p>24 early rule book, those were all in existence prior to</p> <p>25 Zuffa's purchase of the UFC; is that right?</p>	<p style="text-align: right;">85</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. -- you handled all of the weight classes?</p> <p>4 A. Correct. But also every match that I made</p> <p>5 was subject to approval. And if it was a</p> <p>6 championship match or a co-main event, then that</p> <p>7 might be something that's handed to me by Dana, by</p> <p>8 Lorenzo. They had the say over everything, but I was</p> <p>9 the hands-on person for most of it.</p> <p>10 Q. And when you say Dana and Lorenzo, you mean</p> <p>11 Dana White and Lorenzo Fertitta?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And after 2006 or after the merger</p> <p>14 with the WEC, you did matchmaking for lightweight and</p> <p>15 above?</p> <p>16 A. That is correct.</p> <p>17 Q. And lightweight is 155 pounds; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And Shelby did for everything below that?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. And that's 145 pounds and -- and</p> <p>23 below, that's what Shelby did?</p> <p>24 A. Yes.</p> <p>25 Q. And did Shelby also do the women's weight</p>

<p style="text-align: right;">86</p> <p>1 SILVA</p> <p>2 classes?</p> <p>3 A. Yes. Which falls into those weight</p> <p>4 categories as well.</p> <p>5 Q. Right. Okay.</p> <p>6 MR. CRAMER: All right. I'd like to mark</p> <p>7 a compilation of texts just to get it into the</p> <p>8 record, and show you that this is what was</p> <p>9 produced to us. So I'm going to mark as Silva</p> <p>10 Exhibit 4 a text compilation.</p> <p>11 (Silva Deposition Exhibit 4 marked for</p> <p>12 identification.)</p> <p>13 Q. And I believe the copy we gave you doesn't</p> <p>14 have the Bates number. The Bates number that it was</p> <p>15 produced to us with is ZFL-2699672. All right. And</p> <p>16 this exhibit is a compilation of text messages</p> <p>17 produced by Zuffa to us in this litigation from Dana</p> <p>18 White, I guess on behalf of Dana White.</p> <p>19 And I'm going to be asking you some</p> <p>20 questions relating to texts that appear in this</p> <p>21 compilation. But that's where the texts that I'm</p> <p>22 going to be asking you about come from.</p> <p>23 A. Okay.</p> <p>24 Q. All right. I'm going to show you what we'd</p> <p>25 like to mark as Silva Exhibit 5 as the next document.</p>	<p style="text-align: right;">88</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: We've got page numbers on</p> <p>3 this. Do you just have a page number you can</p> <p>4 tell me?</p> <p>5 Q. While these questions are being asked, maybe</p> <p>6 take a look at the -- at the exhibit because I'm</p> <p>7 going to be asking you about it, so --</p> <p>8 A. Okay.</p> <p>9 Q. Thank you. If you can look at the --</p> <p>10 A. I read it.</p> <p>11 Q. You read it, okay. It's not that long.</p> <p>12 MR. CRAMER: Do you know where it is?</p> <p>13 MR. ISAACSON: 84, he tells me.</p> <p>14 MR. CRAMER: Okay.</p> <p>15 Q. All right. So Silva 5 includes three text</p> <p>16 messages. The first one is from Silva to</p> <p>17 [REDACTED].</p> <p>18 Would you agree with me that the</p> <p>19 [REDACTED] number is one of Dana White's numbers?</p> <p>20 A. I believe so.</p> <p>21 Q. Okay. And so this -- the top text is dated</p> <p>22 June 28th, 2014, at 7:11:01 p.m., and it's from you</p> <p>23 to Mr. White, and you write: "Gomi is asking to</p> <p>24 fight Khabib. Khabib is ranked number 4, while Gomi</p> <p>25 isn't even top 15. I think it is a terrible</p>
<p style="text-align: right;">87</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 5 marked for</p> <p>3 identification.)</p> <p>4 Q. So Silva Exhibit 5, as it says at the top,</p> <p>5 the source is ZFL-2699672 at Rows 2181 to 83, so we</p> <p>6 drew this from that compilation that we just looked</p> <p>7 at, that Silva Exhibit 4.</p> <p>8 And --</p> <p>9 MR. ISAACSON: So how do I find this in</p> <p>10 here?</p> <p>11 MR. CRAMER: It is at rows 2181 to 83.</p> <p>12 I'm not actually sure --</p> <p>13 MR. MCSWEENEY: The rows aren't numbered,</p> <p>14 but we can -- do you have a --</p> <p>15 MR. MADDEN: I believe it's in</p> <p>16 chronological order.</p> <p>17 MR. MCSWEENEY: What's that?</p> <p>18 MR. MADDEN: I believe it's in</p> <p>19 chronological order.</p> <p>20 MR. MCSWEENEY: It should be.</p> <p>21 MR. CRAMER: And the -- then these --</p> <p>22 MR. MADDEN: Oh, it's not, it's in the</p> <p>23 alphanumeric order that it was produced in.</p> <p>24 MR. MCSWEENEY: We can -- I can pull up</p> <p>25 the electronic.</p>	<p style="text-align: right;">89</p> <p>1 SILVA</p> <p>2 stylistic match for him. Khabib will wrestle him to</p> <p>3 death."</p> <p>4 MR. ISAACSON: So my preference -- since</p> <p>5 this is only part -- there are more text</p> <p>6 messages as part of this chain.</p> <p>7 MR. CRAMER: Okay.</p> <p>8 MR. ISAACSON: So I'd rather if he would</p> <p>9 look at page 84 so that he could have -- if</p> <p>10 this was the complete text message chain, I</p> <p>11 would have no problem with it, but it's not.</p> <p>12 MR. CRAMER: Okay. I think that there are</p> <p>13 texts in between that don't relate to this</p> <p>14 conversation --</p> <p>15 MR. ISAACSON: They're just --</p> <p>16 MR. MCSWEENEY: No, no --</p> <p>17 MR. ISAACSON: They're just continuing</p> <p>18 ones.</p> <p>19 MR. CRAMER: Okay.</p> <p>20 MR. ISAACSON: There's nothing in between.</p> <p>21 These are three continuous texts, but there's</p> <p>22 more texts.</p> <p>23 Q. All right. You can -- do you see page 84 of</p> <p>24 10 -- 1446 in Silva Exhibit 4?</p> <p>25 A. Uh-huh.</p>

<p style="text-align: right;">98</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 And the problem with something like this,</p> <p>4 too, is it's not just the Gomi part. How would I</p> <p>5 bring that to Khabib? I'm looking at Khabib's side</p> <p>6 of it. He's going, I'm highly ranked, I would like</p> <p>7 to get in position to fight for a title, and beating</p> <p>8 Gomi is not going to help me elevate myself.</p> <p>9 Q. So top fighters, like Khabib, who was</p> <p>10 number 4 at the time, he's going to want to fight</p> <p>11 other top fighters in order to get a chance to</p> <p>12 contend for the title; correct?</p> <p>13 MR. ISAACSON: Objection. Calls for</p> <p>14 speculation.</p> <p>15 A. Correct.</p> <p>16 Q. What ended up happening here, do you</p> <p>17 remember?</p> <p>18 A. I don't recall. I don't remember who Gomi</p> <p>19 went on to fight.</p> <p>20 Q. And -- and just so I'm clear, one way a</p> <p>21 fighter can become a contender is by defeating</p> <p>22 higher-ranked opponents?</p> <p>23 A. Yes.</p> <p>24 Q. And so if you keep defeating higher-ranked</p> <p>25 opponents, eventually you'll be able to fight for the</p>	<p style="text-align: right;">100</p> <p>1 SILVA</p> <p>2 Q. I'm sorry, 25 to 26.</p> <p>3 And in particular, the text that was sent to</p> <p>4 you dated 2/27/15 at 18:07. So at the very bottom of</p> <p>5 the page. And I believe the --</p> <p>6 MR. ISAACSON: I'm sorry, bottom of which</p> <p>7 page?</p> <p>8 MR. CRAMER: Bottom of page 25.</p> <p>9 MR. ISAACSON: Oh, there. I see it.</p> <p>10 Yeah.</p> <p>11 MR. CRAMER: There's a blank, the blanks</p> <p>12 are Silva.</p> <p>13 MR. ISAACSON: Okay.</p> <p>14 MR. CRAMER: I'll represent to you that</p> <p>15 the blanks are Silva.</p> <p>16 Q. And the from is [REDACTED].</p> <p>17 Do you recognize that phone number?</p> <p>18 Is that John Crouch?</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. Who is John Crouch?</p> <p>21 A. John Crouch is a trainer and manager.</p> <p>22 Q. Okay. We believe it's John Crouch. If --</p> <p>23 if the context allows you to confirm that for me,</p> <p>24 please do.</p> <p>25 So the person who texted to you on 2/27/15</p>
<p style="text-align: right;">99</p> <p>1 SILVA</p> <p>2 championship; is that right?</p> <p>3 A. The -- what -- the one problem with that is</p> <p>4 in a match-up somebody is always going to be ranked</p> <p>5 lower.</p> <p>6 Q. Right.</p> <p>7 A. So it's not that you can't still elevate off</p> <p>8 a lower, but it's how much lower.</p> <p>9 Q. I see. So if your -- if your goal as a</p> <p>10 fighter is to contend for the title, you -- you do,</p> <p>11 in general, want to continue to fight top-ranked</p> <p>12 opponents; is that right?</p> <p>13 A. Correct.</p> <p>14 MR. CRAMER: Okay. All right. I'd like</p> <p>15 to mark as Silva Exhibit 6 the next text</p> <p>16 compilation.</p> <p>17 (Silva Deposition Exhibit 6 marked for</p> <p>18 identification.)</p> <p>19 Q. All right. This is -- this compilation is</p> <p>20 Bates ZFL-2699690. And this document was produced by</p> <p>21 Zuffa to us as a compilation of text messages that</p> <p>22 had been pulled from your phone. And the interchange</p> <p>23 I'd like to ask you about is on page 24 to 25 of</p> <p>24 Exhibit 6, so 24 of 163.</p> <p>25 MR. MADDEN: It's 25 to 26.</p>	<p style="text-align: right;">101</p> <p>1 SILVA</p> <p>2 at 18:07 said: "What did you think of the Ben v.</p> <p>3 Tyron match-up."</p> <p>4 And you say: "I like it."</p> <p>5 And he responded: "Think we could do five</p> <p>6 rounds? Would like to have some time to wear these</p> <p>7 guys down."</p> <p>8 And you say: "Probably not. Only main</p> <p>9 events are five rounds and those are i stalky main</p> <p>10 events or the highest ranked, biggest draws</p> <p>11 available. We have main events locked in through</p> <p>12 June."</p> <p>13 Can you recall that you sent at least the</p> <p>14 last text there, the "probably not"? Does that sound</p> <p>15 like you?</p> <p>16 A. Yeah. I don't dispute it.</p> <p>17 Q. Okay. And you -- "i stalky" looks like an</p> <p>18 i-correct or some kind of --</p> <p>19 A. Yeah, it has later on, it says, like, "darn</p> <p>20 auto correct."</p> <p>21 Q. Yeah. So what -- what did you think</p> <p>22 "i stalky" meant?</p> <p>23 A. (Reading.) I'm not sure. But what I was</p> <p>24 telling him, as said in the last sentence, was that</p> <p>25 we already had all the main events through that time</p>

<p style="text-align: right;">102</p> <p>1 SILVA</p> <p>2 period locked in.</p> <p>3 Q. Okay. So I just want to understand some of</p> <p>4 the context here, if I might.</p> <p>5 A. Uh-huh.</p> <p>6 Q. Is it correct that when selecting -- well,</p> <p>7 what are main events? Let's start there.</p> <p>8 A. It's the final fight of the show, the</p> <p>9 most -- the -- the show you're kind of putting the</p> <p>10 most promotion and advertising on --</p> <p>11 Q. And that's --</p> <p>12 A. -- fight --</p> <p>13 Q. That's the main fight that you use as the</p> <p>14 draw to the event?</p> <p>15 A. Yes.</p> <p>16 Q. And in those main events, you look to use</p> <p>17 the biggest drawing fighters; correct?</p> <p>18 A. That are available at the time, yes.</p> <p>19 Q. That are -- okay. That are available at the</p> <p>20 time. And those include some of the highest-ranked</p> <p>21 fighters; correct?</p> <p>22 A. Sometimes.</p> <p>23 Q. Why is it that you seek to populate the main</p> <p>24 events with the biggest draws as fighters?</p> <p>25 A. Because you would like people to buy tickets</p>	<p style="text-align: right;">104</p> <p>1 SILVA</p> <p>2 better-known fighters; is that fair?</p> <p>3 A. Yes.</p> <p>4 Q. All right. If you turn to -- one second.</p> <p>5 All right. Turn to page 2 of the compilation,</p> <p>6 please, Silva Exhibit 6. And if I could draw your</p> <p>7 attention to -- to a text that was sent to you dated</p> <p>8 January 31st, 2015, at 1:46 p m., sort of in the</p> <p>9 middle of the page. The blanks, again, are you. And</p> <p>10 this was sent to you by [REDACTED]. And I'll</p> <p>11 represent to you that that is Rob Haydak, Paul</p> <p>12 Felder's representative.</p> <p>13 A. Okay.</p> <p>14 Q. Does that ring a -- is that -- did you know</p> <p>15 that that was his phone number?</p> <p>16 A. No. I don't know any phone number because</p> <p>17 it's cell phones, I just hit the name.</p> <p>18 Q. Exactly. Okay. Understood.</p> <p>19 But we believe that that is Rob Haydak.</p> <p>20 A. Okay.</p> <p>21 Q. Who is Paul Felder?</p> <p>22 A. He is a lightweight fighter in the UFC.</p> <p>23 Q. And Paul Felder is a fighter representative;</p> <p>24 is that right? I'm sorry, Rob Haydak --</p> <p>25 A. Rob Haydak is.</p>
<p style="text-align: right;">103</p> <p>1 SILVA</p> <p>2 to it, to tune in on TV to watch it. And they're</p> <p>3 going to want to see the biggest stars that you have.</p> <p>4 Q. And if you have an event that doesn't have a</p> <p>5 top level, headlining match-up, that could hurt the</p> <p>6 ability of the event to attract an audience; is that</p> <p>7 fair?</p> <p>8 A. It is. And that does happen. As I said,</p> <p>9 it's about what's available. You may want a bigger</p> <p>10 fight for a card, but if people are injured or get</p> <p>11 married or whatever -- you have to work with what you</p> <p>12 have.</p> <p>13 Q. And you'd like to have -- as a matchmaker,</p> <p>14 you'd like to have the -- a complete stable of</p> <p>15 top-level fighters that are available to fight so you</p> <p>16 can create headlining events; correct?</p> <p>17 MR. ISAACSON: Objection. Objection to</p> <p>18 form.</p> <p>19 A. That would be ideal.</p> <p>20 Q. Okay. And you would not headline an MMA</p> <p>21 event at the UFC with two lesser-known or</p> <p>22 lower-ranked fighters if you could help it; correct?</p> <p>23 A. If you could help it.</p> <p>24 Q. And that's because that kind of event would</p> <p>25 not draw as much fan interest as one with</p>	<p style="text-align: right;">105</p> <p>1 SILVA</p> <p>2 Q. -- is a fighter representative?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And he's someone who you've dealt</p> <p>5 with from time to time --</p> <p>6 A. Yes.</p> <p>7 Q. -- or you did when you were at UFC?</p> <p>8 Okay. And he asks: "Do you still need</p> <p>9 someone for Thatch?"</p> <p>10 And you answer: "Who do you have?"</p> <p>11 And then there are -- I'd like you to -- you</p> <p>12 say: "Jonavin Webb 7 and 0."</p> <p>13 And then he says: "If you need me for Feb</p> <p>14 am there."</p> <p>15 And you say --</p> <p>16 A. I think that's somebody else.</p> <p>17 Q. Somebody else. Different one.</p> <p>18 So let's go to C -- I think your answer here</p> <p>19 is: "CFFC champ. Teammate with Felder."</p> <p>20 This is from -- I'm sorry. This is from</p> <p>21 Haydak to you.</p> <p>22 A. Uh-huh.</p> <p>23 Q. He says, CFS -- "CFFC champ." --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- "Teammate with Felder. Trains with</p>

<p style="text-align: right;">106</p> <p>1 SILVA</p> <p>2 Cerrone. Very tough."</p> <p>3 "It's a main event. I need a name guy,</p> <p>4 preferably one who has fought in the UFC."</p> <p>5 I'm sorry, I skipped over. So he says:</p> <p>6 "CFFC champ. Teammate with Felder. Trains with</p> <p>7 Cerrone. Very tough."</p> <p>8 And then you respond: "It's a main event.</p> <p>9 I need a name guy, preferably one who has fought in</p> <p>10 the UFC."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What is CFFC?</p> <p>14 A. It's a promotion, fighting promotion.</p> <p>15 Q. And --</p> <p>16 A. Like cage fighting -- fighting championship,</p> <p>17 something like that.</p> <p>18 Q. Okay. So it's a promotion.</p> <p>19 And Mr. Haydak is -- is offering to you a</p> <p>20 fighter who was one of Felder's teammates who trains</p> <p>21 with Cerrone for the fight. Is that what was going</p> <p>22 on?</p> <p>23 A. Yes. He's trying to establish his pedigree.</p> <p>24 Q. I see. Says, he's very tough.</p> <p>25 And then -- and that -- and then you say to</p>	<p style="text-align: right;">108</p> <p>1 SILVA</p> <p>2 that's popular with fans and that's well known; is</p> <p>3 that fair?</p> <p>4 MR. ISAACSON: Objection to form.</p> <p>5 A. That's -- ideally it's always a sliding</p> <p>6 scale, as maybe my text will show. I go, this is</p> <p>7 what I'm looking for; and as time is going by, it's,</p> <p>8 okay, well, what's the next step down. What's the</p> <p>9 next step down. You do the best that you can. You</p> <p>10 have your ideal for it, but then you quite often have</p> <p>11 to settle for less.</p> <p>12 Q. And you prefer name guys who've fought in</p> <p>13 the UFC for main events because they tend to be</p> <p>14 people who are proven and high-quality fighters; is</p> <p>15 that fair?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. They at least have a name awareness from UFC</p> <p>18 fans. They go, I know who this guy is.</p> <p>19 Q. And so those fighters who have a UFC</p> <p>20 pedigree will generate more fan interest?</p> <p>21 A. It's not only that. It's also that people</p> <p>22 know, as I had brought up earlier, that competing in</p> <p>23 your first UFC, even for high-level guys, tends to be</p> <p>24 a difficult thing. They have what the commentators</p> <p>25 term "the UFC jitters." For somebody like Quinton</p>
<p style="text-align: right;">107</p> <p>1 SILVA</p> <p>2 him: "It's a main event. I need a name guy,</p> <p>3 preferably one who has fought in the UFC."</p> <p>4 What were you trying to convey to</p> <p>5 Mr. Haydak?</p> <p>6 A. That ideally in the situation what I was</p> <p>7 looking for is somebody who people were familiar with</p> <p>8 since this was the main event.</p> <p>9 Q. And why did you -- why were you telling him</p> <p>10 that you wanted preferably someone who had fought in</p> <p>11 the UFC?</p> <p>12 A. So that fans would have that name</p> <p>13 recognition, why is this guy in the main event?</p> <p>14 Q. And it was your -- you were trying to convey</p> <p>15 that more likely a name guy is going to be someone</p> <p>16 who has a pedigree where he was already established</p> <p>17 in the UFC?</p> <p>18 A. Yes. If you're going to be a main event of</p> <p>19 the UFC, it would make sense that you most likely</p> <p>20 already fought in the UFC.</p> <p>21 Q. Okay. And it's fair to say that in</p> <p>22 selecting main events, you -- you need a name guy,</p> <p>23 generally; is that right?</p> <p>24 A. As best as you can do.</p> <p>25 Q. And a name guy generally means a fighter</p>	<p style="text-align: right;">109</p> <p>1 SILVA</p> <p>2 "Rampage" Jackson, who competed in Pride in front of</p> <p>3 huge crowds, still his first UFC he said he had UFC</p> <p>4 jitters and it's hard.</p> <p>5 So it's a tough situation to put somebody</p> <p>6 into for the first UFC. It's like, hey, you're not</p> <p>7 just making your UFC debut, you're in the main event.</p> <p>8 It's more rounds that you may not be used to. It's a</p> <p>9 tough thing. So you would prefer not to do that.</p> <p>10 Q. So you don't want to take someone who has</p> <p>11 fought in another promotion and may have been</p> <p>12 successful in that other promotion, but -- and -- and</p> <p>13 stick them directly in a main event where they would</p> <p>14 potentially be jittery if they were fighting for</p> <p>15 the --</p> <p>16 A. It's happened. And there are some who've</p> <p>17 done well, but there's also some who've complained.</p> <p>18 There's some who are like, wow, that was -- turned</p> <p>19 out to be an issue. But they would have sworn</p> <p>20 beforehand that it was not going to be an issue. But</p> <p>21 you don't know till you're there.</p> <p>22 But what I like to do is give people the</p> <p>23 best chance to succeed. I'm not trying to get</p> <p>24 anybody to win, but I'm trying to give them the best</p> <p>25 chance to do as well as they can.</p>

<p style="text-align: right;">122</p> <p>1 SILVA</p> <p>2 Q. -- because they've turned down a fight?</p> <p>3 A. No.</p> <p>4 Q. Why not?</p> <p>5 A. Because it's not reasonable. It -- to me --</p> <p>6 it would have to be -- I expect -- if I have a</p> <p>7 two-week dropout, I expect a fighter to say no.</p> <p>8 Q. Okay.</p> <p>9 A. You're asking a lot.</p> <p>10 I just made it a personal policy of mine,</p> <p>11 even if you lost your previous two fights, if you</p> <p>12 chose to fight late notice and lost for your third</p> <p>13 time in a row, I was not going to release you, even</p> <p>14 though it was in my rights to, because you went</p> <p>15 beyond, you -- to me, that -- that is a risk. It is</p> <p>16 hard to -- to take less preparation, and -- and I</p> <p>17 understand that.</p> <p>18 But anytime I ever called, I never put</p> <p>19 pressure on anybody to fight late notice, because I</p> <p>20 very much understood. It's like, this is tough. The</p> <p>21 opponent's had more time to prepare than you.</p> <p>22 Sometimes you get lucky and maybe he had a</p> <p>23 training partner who was fighting near that time so</p> <p>24 he was training a lot and he was in good shape, and</p> <p>25 they're -- they'll jump at it, and go, yes, I'm ready</p>	<p style="text-align: right;">124</p> <p>1 SILVA</p> <p>2 credited it -- he said, when I have too long at camp,</p> <p>3 I accrue more injuries, and I get too much into my</p> <p>4 head; I always stay in good shape, and it was better</p> <p>5 for me to have less.</p> <p>6 But it was -- for most people, I would think</p> <p>7 to have more time to prepare would be better.</p> <p>8 Q. For most people, you would agree that it is</p> <p>9 potentially a risk to have them fight on two weeks'</p> <p>10 notice against someone who has been training for a</p> <p>11 long time?</p> <p>12 MR. ISAACSON: Objection.</p> <p>13 Q. For most people and in general; is that</p> <p>14 fair?</p> <p>15 MR. ISAACSON: Objection to form.</p> <p>16 A. When you say "risk" --</p> <p>17 Q. Risk of -- of having a bad fight, risk of</p> <p>18 being at a disadvantage in that fight. Is that fair?</p> <p>19 A. Yeah, I think --</p> <p>20 MR. ISAACSON: Objection. Vague.</p> <p>21 Compound.</p> <p>22 A. Yeah, I think you're giving yourself less</p> <p>23 time to prepare. And more time, most times it seemed</p> <p>24 to be ideal. But I always noted that, and that's why</p> <p>25 I was never surprised -- if I called somebody to be a</p>
<p style="text-align: right;">123</p> <p>1 SILVA</p> <p>2 to go, I was hoping that something would open up.</p> <p>3 But if they said no, it's like cool, I'm on to the</p> <p>4 next guy.</p> <p>5 Q. So let me just understand. In your opinion,</p> <p>6 offering someone a fight with two weeks' notice could</p> <p>7 be a risk for that fighter if they hadn't been</p> <p>8 training?</p> <p>9 A. Yes. It's certainly ideal to have more time</p> <p>10 to train.</p> <p>11 Q. And it puts that -- that fighter who gets</p> <p>12 this late notice at a disadvantage because the person</p> <p>13 who they are going to be competing against presumably</p> <p>14 would have been training for a long time, whereas</p> <p>15 this person might be in the situation of having to</p> <p>16 train rather quickly; is that fair?</p> <p>17 A. I would think that, but there's also been</p> <p>18 examples where that's been proven to be untrue, where</p> <p>19 the fighter themselves has actually said it was</p> <p>20 beneficial to them to have less time, like Michael</p> <p>21 Bisping when he rematched Luke Rockhold on short</p> <p>22 notice after losing to him when he had full</p> <p>23 preparation. He came off a movie set to be a</p> <p>24 replacement, and knocked out Luke Rockhold and became</p> <p>25 the champion, still currently the champion, and he</p>	<p style="text-align: right;">125</p> <p>1 SILVA</p> <p>2 late notice replacement and they said no, I was never</p> <p>3 surprised or upset about it, because I kind of</p> <p>4 expected that would be the case.</p> <p>5 Q. Is it fair to say that under Zuffa's</p> <p>6 standard contract with fighters, you had the</p> <p>7 discretion to give the fighter an extension of that</p> <p>8 contract for turning down a fight even if it was late</p> <p>9 notice?</p> <p>10 A. That was not my understanding. And I didn't</p> <p>11 really read the contracts. If somebody had a legal</p> <p>12 issue with the contracts, I would refer them to legal</p> <p>13 department. The contracts were revised through the</p> <p>14 years and -- but it was simply my understanding, my</p> <p>15 feeling personally that you had to have what seemed</p> <p>16 to be a reasonable amount of time for somebody to</p> <p>17 prepare if they're going to step into a fight. And</p> <p>18 that if it was particularly short notice, it's not</p> <p>19 reasonable just to insist that they fight.</p> <p>20 Q. Okay. You are aware, though, that there is</p> <p>21 a provision in Zuffa's contracts with fighters that</p> <p>22 if fighters turn down fights, Zuffa can extend the</p> <p>23 term of the contract; correct?</p> <p>24 A. I'm aware of that. But I did not invoke it.</p> <p>25 Q. You did not invoke it in -- in your -- your</p>

<p style="text-align: right;">126</p> <p>1 SILVA</p> <p>2 testimony --</p> <p>3 A. In this sort of situation.</p> <p>4 Q. Right. Your testimony is you did not invoke</p> <p>5 an extension for turning down a fight in a situation</p> <p>6 where you give a fighter late notice, that's what</p> <p>7 you're saying?</p> <p>8 A. Yes.</p> <p>9 Q. And you're saying that because you believe</p> <p>10 it would be unfair to invoke that provision in that</p> <p>11 instance where a fighter has been given late notice;</p> <p>12 is that right?</p> <p>13 A. Yes.</p> <p>14 Q. But you have, during the course of your work</p> <p>15 at Zuffa, caused notices to go out to fighters</p> <p>16 extending the terms of their contracts when they've</p> <p>17 turned down fights; correct?</p> <p>18 A. Yes.</p> <p>19 Q. So what, in your view, is a reasonable</p> <p>20 amount of notice that you believe should be given to</p> <p>21 fighters so that they can be properly ready to fight?</p> <p>22 A. Say between 6 to 8 weeks.</p> <p>23 Q. And in -- is it your view that if you or</p> <p>24 Zuffa gives notice to a fighter that's less than</p> <p>25 6 weeks, that it would be unreasonable for them to be</p>	<p style="text-align: right;">128</p> <p>1 SILVA</p> <p>2 will be very upset that he's turned yet another offer</p> <p>3 down."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And I think we've established</p> <p>7 that Stipe is Stipe Miocic?</p> <p>8 A. Yes.</p> <p>9 Q. And he's the current UFC champion?</p> <p>10 A. Yes.</p> <p>11 Q. Heavyweight champion?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. Now, at the bottom of page 2 you say</p> <p>14 to Mr. Kalikas on May 11th, 2011: "If he wins again,</p> <p>15 I will sign him but it has to be against a decent</p> <p>16 opponent. Someone with at least a winning record."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What were you trying to convey to</p> <p>20 Mr. Kalikas with this e-mail?</p> <p>21 A. This is what I don't want, is underprepared</p> <p>22 people in the UFC.</p> <p>23 So if the majority of your opponents have</p> <p>24 losing records, they're probably not very good, so it</p> <p>25 doesn't tell me much about your ability. If you at</p>
<p style="text-align: right;">127</p> <p>1 SILVA</p> <p>2 asked to fight?</p> <p>3 A. It would not be something I would want to</p> <p>4 do.</p> <p>5 Q. Okay. All right. Let's look back at this</p> <p>6 document. Mr. Kalikas says to you in the -- on the</p> <p>7 middle of page 3 of the document, on May 11, 2011, at</p> <p>8 9:38, in the third full paragraph he says: "As I've</p> <p>9 mentioned before, another organization (Bellator)</p> <p>10 keeps coming after Stipe hard and they keep upping</p> <p>11 their offer. I want to be clear that I'm not writing</p> <p>12 you this to try to negotiate in any way as money is</p> <p>13 not an issue for Stipe right now. They want to give</p> <p>14 him a spot in their next HW tourney but Stipe's goal</p> <p>15 is to fight for you and become a mainstay in the UFC.</p> <p>16 Assuming he wins June 4th for us (which I have no</p> <p>17 doubt he will), can you guarantee him a</p> <p>18 contract/opportunity with you so he can tell them</p> <p>19 he's no longer on the table?"</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And then Mr. Kalikas goes on to say: "The</p> <p>23 reason for this request is that Stipe wants to know</p> <p>24 that if he turns them down again, that he will have</p> <p>25 an opportunity with you because more than likely they</p>	<p style="text-align: right;">129</p> <p>1 SILVA</p> <p>2 least have a winning record, I can get a better --</p> <p>3 go, okay, this guy can at least, at this level, beat</p> <p>4 decent people. But there's a lot of managers who've</p> <p>5 had their fighters' records with guys they just</p> <p>6 seemed to find on the street or whatever.</p> <p>7 It's just -- so I said this is the kind of</p> <p>8 thing -- I said I've sent out hundreds of e-mails</p> <p>9 with almost this exact language. It's very</p> <p>10 consistent of, I would like your guy to have more</p> <p>11 experience and have experience against better people.</p> <p>12 But you see, I rarely say -- it's not like</p> <p>13 necessarily name people or in a particular</p> <p>14 organization. It's like, it's not unreasonable for</p> <p>15 us to go "at least a winning record."</p> <p>16 You know, so I could have a winning record</p> <p>17 against people in my neighborhood, but if I have a --</p> <p>18 so you go, what does that really mean. It's like,</p> <p>19 well, it's better than having a losing record to</p> <p>20 people in my neighborhood.</p> <p>21 Q. Right.</p> <p>22 A. It's -- I'm just trying to have some kind of</p> <p>23 thing.</p> <p>24 But he's a -- Stipe's a good-looking</p> <p>25 heavyweight. Muscular. Like -- a lot of</p>

<p style="text-align: right;">130</p> <p>1 SILVA</p> <p>2 heavyweights tend to be a bit softer and all. He</p> <p>3 looks like an athlete and all. So it's not like I</p> <p>4 was not interested, but I wanted to make sure that he</p> <p>5 had the goods, that he could perform well, before</p> <p>6 putting him in that situation.</p> <p>7 Q. Perform well elsewhere before putting him in</p> <p>8 the UFC?</p> <p>9 A. Correct.</p> <p>10 Q. And then you go on to say at the top of</p> <p>11 page 3, you -- you conclude your May 11, 2011, e-mail</p> <p>12 to Mr. Kalikas by saying: "Beating guys with crappy</p> <p>13 records won't convince anyone he's ready for the big</p> <p>14 leagues."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. What did you mean by that?</p> <p>18 A. Exactly what I was saying. To lose -- I</p> <p>19 have to convince fans that somebody's legitimate. I</p> <p>20 have to confuse -- I have to convince athletic</p> <p>21 commissions that this guy is reasonable.</p> <p>22 Especially at the heavyweight division, I</p> <p>23 have less guys, so what -- for him to come in, I have</p> <p>24 less of a choice who to match him up against, and a</p> <p>25 lot of those guys are experienced.</p>	<p style="text-align: right;">132</p> <p>1 SILVA</p> <p>2 be ready. Is that right?</p> <p>3 A. Right. I was saying at the time I did not</p> <p>4 have a spot for him. That's why I didn't just sign</p> <p>5 him. It wasn't like, Bellator wants him, it's like</p> <p>6 oh, he's done. It's like, he does not have enough</p> <p>7 experience yet; if he gets another win and it's</p> <p>8 against a good -- another good person, then I would</p> <p>9 think, yeah, he's at that level now, I could look at</p> <p>10 bringing him in.</p> <p>11 Q. And Kalikas was saying, look, Bellator wants</p> <p>12 him, but what Kalikas was telling you was that Stipe</p> <p>13 really wanted to come to the UFC, that was his dream;</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And -- and you were -- you said he wasn't</p> <p>17 ready for the UFC, for the big leagues; right?</p> <p>18 A. Right. But that can change in a fight.</p> <p>19 That's why I said, one more fight against a guy --</p> <p>20 but it's not just one more fight. If he had taken</p> <p>21 one more fight against a guy with a crummy record,</p> <p>22 then I still wouldn't have signed him. It's got to</p> <p>23 be in this one more fight, he has to fight somebody</p> <p>24 legitimate.</p> <p>25 Q. All right. You can put that document aside.</p>
<p style="text-align: right;">131</p> <p>1 SILVA</p> <p>2 So an athletic commission is going to look</p> <p>3 at him and go, wait, this guy only has this many</p> <p>4 fights and you're putting him in with a guy who's got</p> <p>5 way more fights than him, has way more UFC experience</p> <p>6 than him. Why?</p> <p>7 And the better record you have -- there a</p> <p>8 bunch, yeah, these are things that I could go to the</p> <p>9 commission and go, but look at the guys that he has</p> <p>10 fought, he has beaten guys with winning records, he</p> <p>11 has beaten good guys, this is why I think this is</p> <p>12 reasonable.</p> <p>13 But when they can pick apart and go no,</p> <p>14 everybody he's fought has a losing record, we don't</p> <p>15 think this is a legitimate match, and then I -- the</p> <p>16 match won't be allowed to happen.</p> <p>17 Q. And Stipe was at Bellator at this time?</p> <p>18 A. No. No, he's not in Bellator. He was in</p> <p>19 this other show, and they were saying that Bellator</p> <p>20 is making overtures to him.</p> <p>21 Q. Oh. I see. I see. Bellator is making</p> <p>22 overtures. And what Kalikas was saying is they</p> <p>23 really want to come to the UFC.</p> <p>24 A. Yeah.</p> <p>25 Q. And then you're telling Kalikas, you got to</p>	<p style="text-align: right;">133</p> <p>1 SILVA</p> <p>2 And Stipe, by the way, signed with the UFC</p> <p>3 in or -- in or about June 2011; is that right?</p> <p>4 A. I have no idea on the date.</p> <p>5 Q. Okay. All right.</p> <p>6 MR. CRAMER: I'd like to mark as Silva</p> <p>7 Exhibit 9 the next document.</p> <p>8 (Silva Deposition Exhibit 9 marked for</p> <p>9 identification.)</p> <p>10 Q. All right. Silva Exhibit 9 is a</p> <p>11 January 2015 e-mail exchange. It's a two-page</p> <p>12 document bearing the Bates range ZFL-0872344 through</p> <p>13 345.</p> <p>14 And if you go to the bottom of the first</p> <p>15 page, there's -- the first e-mail is from Mayra</p> <p>16 De Leon?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Who is my Mayra De Leon?</p> <p>19 A. I believe she's somebody who worked with us</p> <p>20 as far as coordinating The Ultimate Fighter.</p> <p>21 Q. The Ultimate Fighter was a TV show?</p> <p>22 A. Yes, reality show.</p> <p>23 Q. That the UFC promoted, put on?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And she is discussing a fighter named</p>

<p style="text-align: right;">134</p> <p>1 SILVA</p> <p>2 Cesar Arzamendia Gonzalez?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Do you know who he is?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Who is he?</p> <p>7 A. He's a fighter.</p> <p>8 Q. Okay. And she says at the bottom: "Hi,</p> <p>9 Cesar Arzamendia Gonzalez said he fought with</p> <p>10 Jungle FC a year ago and he doesn't remember if he</p> <p>11 signed a contract or not."</p> <p>12 You see that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. What is Jungle FC?</p> <p>15 A. Jungle Fighting Championships. It's a</p> <p>16 Brazilian fight promotion.</p> <p>17 Q. And there's an e-mail in the middle of the</p> <p>18 page from Mr. Ismael, Wallid Ismael.</p> <p>19 A. Yeah, Wallid.</p> <p>20 Q. Wallid. Ismael or Ismael?</p> <p>21 A. That's correct.</p> <p>22 Q. Ismael?</p> <p>23 A. Yeah.</p> <p>24 Q. Wallid Ismael. Dated January 15, 2015, to</p> <p>25 you.</p>	<p style="text-align: right;">136</p> <p>1 SILVA</p> <p>2 us and he can't do it. And we're like, cool, that's</p> <p>3 your guy, no problem. He -- he didn't let us know,</p> <p>4 but we're glad to know that.</p> <p>5 And then there's some who are just like,</p> <p>6 yeah, I have a contract with them, but I'm fine with</p> <p>7 releasing him. It's -- it's not an issue.</p> <p>8 So that was the situation with Wallid. He</p> <p>9 said yes, he did fight my show, yes, he does have a</p> <p>10 contract with me, but it's fine, I'm fine with him</p> <p>11 doing the show.</p> <p>12 Q. So Jungle Fight was okay releasing its</p> <p>13 fighters to the UFC because it was doing a favor for</p> <p>14 one of its fighters; is that right?</p> <p>15 A. Yeah. I think they felt like they were</p> <p>16 trying -- they knew this kid wanted to do the show,</p> <p>17 and they are being nice about it.</p> <p>18 Q. And is Jungle Fight kind of a feeder league</p> <p>19 to the UFC, potentially?</p> <p>20 A. I mean, there's -- there's no official</p> <p>21 feeder leagues. People come in the UFC from every</p> <p>22 single promotion that there are. And other shows get</p> <p>23 our fighters too. So everything's a fighter --</p> <p>24 feeder league for everything.</p> <p>25 Q. But Ismael wanted to -- do you think that</p>
<p style="text-align: right;">135</p> <p>1 SILVA</p> <p>2 A. Uh-huh.</p> <p>3 Q. And he says: "If he fought in Jungle Fight</p> <p>4 he has signed a contract, if it is to fight UFC he's</p> <p>5 released Boss," with a smiley face.</p> <p>6 A. Uh-huh.</p> <p>7 Q. What was he conveying to you?</p> <p>8 A. This was for The Ultimate Fighter, which is</p> <p>9 a bit different than people get in the regular UFC.</p> <p>10 You have a group of fighters who go to try out, and</p> <p>11 then you kind of pick a certain amount, then they</p> <p>12 have to pass background checks and medicals, and in</p> <p>13 the end they'll whittle it down to 16 fighters or 32</p> <p>14 fighters, depending on the format of the season, who</p> <p>15 will compete on it.</p> <p>16 But it's important, obviously, that they're</p> <p>17 not under contract to somebody else. We don't want</p> <p>18 to infringe on somebody else's contract.</p> <p>19 And a lot of times the fighters are very bad</p> <p>20 about reporting or knowing if they're under contract,</p> <p>21 so that's something that we do ask. And if it turns</p> <p>22 out that they are or they might be, we inquire of</p> <p>23 them.</p> <p>24 And there were promotions of -- where</p> <p>25 they're like, no, he -- he's under the contract with</p>	<p style="text-align: right;">137</p> <p>1 SILVA</p> <p>2 Ismael benefitted from allowing his fighters to -- to</p> <p>3 accede up to the UFC? He could promote that to --</p> <p>4 that to new people to join his league?</p> <p>5 A. Yeah, I think it's -- it's helpful for him</p> <p>6 to show that his fighters can compete outside of</p> <p>7 Brazil. It's a Brazilian promotion and people might</p> <p>8 go, all right, we know you're good against these guys</p> <p>9 in Brazil, how do you fare against other people</p> <p>10 around the world.</p> <p>11 Q. And, in particular, at the UFC?</p> <p>12 A. That's one of the promotions outside of</p> <p>13 Brazil.</p> <p>14 Q. All right. Okay. All right. You can put</p> <p>15 that document aside.</p> <p>16 Did Mr. Ismael ever tell you that he -- he</p> <p>17 essentially wanted you to take his guys? Do you</p> <p>18 recall him telling you that?</p> <p>19 A. The league very much liked and respected the</p> <p>20 UFC, so he was always a big proponent. He's just --</p> <p>21 he's a former UFC fighter from back in the day, back</p> <p>22 in SEG day, so I think he just had a certain amount</p> <p>23 of affection for it.</p> <p>24 Q. And he ran an MMA promotion; right?</p> <p>25 A. He did.</p>

<p style="text-align: right;">138</p> <p>1 SILVA</p> <p>2 Q. But he didn't really see his promotion as</p> <p>3 competing directly with the UFC; he saw his promotion</p> <p>4 as on a different level from the UFC?</p> <p>5 A. His --</p> <p>6 MR. ISAACSON: Objection to form.</p> <p>7 Q. Go ahead, you can answer.</p> <p>8 MR. ISAACSON: Calls for speculation.</p> <p>9 Q. You can answer if you understand it.</p> <p>10 A. I'm sure Wallid was very proud of the</p> <p>11 accomplishments of his organization, but I think he</p> <p>12 also had a lot of respect for the UFC.</p> <p>13 Q. And he wasn't trying to compete at the level</p> <p>14 of the UFC; he was running a different kind of</p> <p>15 promotion; correct?</p> <p>16 A. Well, he would do shows in Brazil and we</p> <p>17 would do shows in Brazil. So it's not like there is</p> <p>18 no competition between the two. But he was not a</p> <p>19 worldwide show.</p> <p>20 Q. And he was -- he didn't see himself as</p> <p>21 trying to defeat the UFC; he saw himself as</p> <p>22 benefitting by -- by feeding talent to the UFC; is</p> <p>23 that right?</p> <p>24 A. You'd have to ask him.</p> <p>25 MR. ISAACSON: Objection to form. Calls</p>	<p style="text-align: right;">140</p> <p>1 SILVA</p> <p>2 Q. What did you mean by that?</p> <p>3 A. I think that not -- some promoters can be a</p> <p>4 bit shady, where we've known Wallid for years and</p> <p>5 years, and he was always forthright with us. So he</p> <p>6 was somebody that I felt -- if he told me something,</p> <p>7 I felt comfortable taking his word.</p> <p>8 Like, if he said, hey, you can use my</p> <p>9 fighter, he's demonstrated before that it's not been</p> <p>10 an issue; where there's been other promoters who</p> <p>11 would say, yeah, I'll let them go, but then never</p> <p>12 actually release them, so we couldn't use them and</p> <p>13 they kind of did it to mess with us. So that's the</p> <p>14 assurance I was giving them.</p> <p>15 They're on timetables with production of the</p> <p>16 show for these foreign ultimate fighters. So they're</p> <p>17 kind of asking me, it's like we've got to lock in the</p> <p>18 cast, are we good to go with this guy? We don't have</p> <p>19 anything in writing yet that says we're free and</p> <p>20 clear. I'm like, don't worry about it, Wallid's a</p> <p>21 good guy, if he says that we can use his guy, we can</p> <p>22 use his guy. I felt -- it was still -- it was</p> <p>23 possible he could have reneged on that --</p> <p>24 Q. Right.</p> <p>25 A. -- but he never had.</p>
<p style="text-align: right;">139</p> <p>1 SILVA</p> <p>2 for speculation.</p> <p>3 MR. CRAMER: All right. Well, let's mark</p> <p>4 as Exhibit Silva 10 the next document.</p> <p>5 (Silva Deposition Exhibit 10 marked for</p> <p>6 identification.)</p> <p>7 BY MR. CRAMER:</p> <p>8 Q. Silva 10 is a series of e-mails with a Bates</p> <p>9 range ZFL-0872351 through 2352. And this is another</p> <p>10 January 2015 e-mail exchange in part involving</p> <p>11 Jungle FC. This doesn't include the e-mail that we</p> <p>12 just read from Ismael, instead it includes an e-mail</p> <p>13 from you to Dan Farmer.</p> <p>14 Do you know who Dan Farmer is?</p> <p>15 A. Yes.</p> <p>16 Q. And who is he?</p> <p>17 A. He was kind of the head of production for</p> <p>18 Ultimate Fighter. Especially the international ones.</p> <p>19 Q. And you say in your e-mail to Farmer and</p> <p>20 Shelby, Thursday, January 15, 2015: "Jungle Fight</p> <p>21 promoter Wallid" -- "Wallid Ismael has always been</p> <p>22 very easy to work with. He wants us to take his</p> <p>23 guys."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">141</p> <p>1 SILVA</p> <p>2 Q. And he wanted you, the -- the UFC, to allow</p> <p>3 the -- his fighters to be promoted from Jungle Fights</p> <p>4 to The Ultimate Fighter and hopefully ultimately to</p> <p>5 the UFC; right?</p> <p>6 A. I think especially if it's a guy like this</p> <p>7 who's an Ultimate Fighter, it wasn't like one of his</p> <p>8 champions or anything like that, he had nothing to</p> <p>9 lose from it, it was simply one of his -- a fighter,</p> <p>10 a guy who had fought for his promotion would get</p> <p>11 exposure in the UFC.</p> <p>12 Q. Okay.</p> <p>13 MR. CRAMER: I'd like to mark the next</p> <p>14 document as Silva Exhibit 11, please.</p> <p>15 (Silva Deposition Exhibit 11 marked for</p> <p>16 identification.)</p> <p>17 Q. All right. This is an e-mail exchange</p> <p>18 between you and Kevin Patrick Lillis, among others,</p> <p>19 spanning from September to October 2014, and it</p> <p>20 bear -- bears the Bates range ZFL-0822197 through</p> <p>21 200.</p> <p>22 The first e-mails are the same as in the --</p> <p>23 an earlier document we just looked at. I'm sorry,</p> <p>24 I'm wrong about that.</p> <p>25 Please turn to the second page and look at</p>

<p style="text-align: right;">142</p> <p>1 SILVA</p> <p>2 the middle of the page. This is an e-mail from</p> <p>3 Mr. Walsh to you -- I'm sorry, this is an e-mail from</p> <p>4 Kevin Patrick. Is that the same thing as Mr. Walsh?</p> <p>5 It's Kevin -- are those two different people?</p> <p>6 A. Yes. Walsh is the fighter.</p> <p>7 Q. I see. Walsh is the fighter.</p> <p>8 And -- and -- and Pat -- and Kevin Lillis.</p> <p>9 Okay.</p> <p>10 So Lillis writes to you, at the top of his</p> <p>11 e-mail dated September 8th, 2014: "Hello, Mr. Silva,</p> <p>12 I'm Kevin Lillis and am managing Pat Walsh. I am the</p> <p>13 CEO of Victory Combat Sports as well, a regional</p> <p>14 promotion in the Northeast (which I hope will become</p> <p>15 a steady feeder to, but is not and will never be a</p> <p>16 competitor to the UFC)."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What was, in your understanding, was</p> <p>20 Mr. Lillis trying to tell you in this paragraph in</p> <p>21 this e-mail?</p> <p>22 A. I think that he was obviously introducing</p> <p>23 himself to me. It -- it's clear that he did not know</p> <p>24 me. So in introduction, he's feeling -- thinking</p> <p>25 that it's necessary for him to go, like, hey, I'm a</p>	<p style="text-align: right;">144</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection to form.</p> <p>3 Q. Is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Were there MMA promotions that you</p> <p>6 understood were actually promoting themselves as</p> <p>7 feeding grounds to the UFC?</p> <p>8 A. I think they were very -- at least the smart</p> <p>9 ones were careful about it. But they might tout that</p> <p>10 veterans of their show had gone on, but also have</p> <p>11 touted people going to Pride, going to other big</p> <p>12 events. I mean, there's definitely regional shows,</p> <p>13 smaller shows, and then there's levels above that.</p> <p>14 So some of the much smaller shows I think saw that as</p> <p>15 their role.</p> <p>16 Q. So there are regional shows, and then what</p> <p>17 are the levels above the regional shows?</p> <p>18 A. Well, then when you get to something, if --</p> <p>19 if you're a Strikeforce or a Bellator and anything</p> <p>20 like that, you're -- definitely you're not a regional</p> <p>21 show.</p> <p>22 If you're a show that's only catering to a</p> <p>23 very small market specifically, like we only ever</p> <p>24 hold events in this one state, in this one venue,</p> <p>25 which a lot do, I mean, it's just -- that's a</p>
<p style="text-align: right;">143</p> <p>1 SILVA</p> <p>2 promoter but I'm not after you. It's like, yeah,</p> <p>3 it's fine, I'm happy to talk to promoters who are.</p> <p>4 But he decided to -- to put that in there.</p> <p>5 Q. And do you understand what he meant when he</p> <p>6 said "we hope to become a steady feeder to the UFC"?</p> <p>7 A. Oh, yeah. We had numerous promotions ask to</p> <p>8 be official feeder shows for the UFC. That is a</p> <p>9 benefit to them. But it -- it was something that I</p> <p>10 always thought could be abused, that it would let the</p> <p>11 regional promoter treat their fighters less well,</p> <p>12 because like, look, you want to get in the UFC, this</p> <p>13 is the way to do it. So we never did that. We would</p> <p>14 not give somebody that UFC stamp of approval, and</p> <p>15 then it could be taken advantage of by them against</p> <p>16 the fighter.</p> <p>17 So -- but we had lots of requests. It's</p> <p>18 just kind of lazy on their side. It's like, we don't</p> <p>19 have to go look for good talent, good talent will</p> <p>20 just flock here because they would like to get in the</p> <p>21 UFC one day.</p> <p>22 Q. I see. So there were a number of different</p> <p>23 MMA promotions that saw as a potential business model</p> <p>24 to be a proving ground for MMA athletes, and then</p> <p>25 promote that they would then be fed into the UFC?</p>	<p style="text-align: right;">145</p> <p>1 SILVA</p> <p>2 small-time thing. Doesn't mean they can't have good</p> <p>3 shows or produce some good competition, but that's</p> <p>4 where they see their role.</p> <p>5 Q. What are the promotions out there during the</p> <p>6 course of your work at the UFC that you would</p> <p>7 consider nonregional shows, the sort of next level</p> <p>8 up?</p> <p>9 You mentioned Strikeforce and Bellator.</p> <p>10 Anybody else?</p> <p>11 A. It fluctuates. They sometimes come and go.</p> <p>12 Some seem to be doing better at certain times. And</p> <p>13 then you can kind of argue over that you have shows</p> <p>14 like King of the Cage that's been around forever and</p> <p>15 has hold -- held events all over the place, in -- in</p> <p>16 many different venues, where do you consider them.</p> <p>17 It -- it just is kind of an opinion.</p> <p>18 Q. But it's --</p> <p>19 A. If you ask them, they're definitely one of</p> <p>20 the biggest in the world. They've told me personally</p> <p>21 they think they're bigger than the UFC, so --</p> <p>22 Q. Did you agree with them when they told you</p> <p>23 that?</p> <p>24 A. No. I mean, I think everybody -- if -- if I</p> <p>25 worked for Bellator, I'm pretty sure I would convince</p>

<p style="text-align: right;">146</p> <p>1 SILVA</p> <p>2 myself that Bellator is number one. If I worked for</p> <p>3 Strikeforce, I would -- that's why when you're</p> <p>4 working for something, you want to be the best,</p> <p>5 that's what you're aspiring to be. So it's not</p> <p>6 anything I would even hold against somebody. I kind</p> <p>7 of expect that, that -- that you see yourself in the</p> <p>8 best light, you know what you're trying to accomplish</p> <p>9 and get to, and it would be a little bit weird to</p> <p>10 hold that against them.</p> <p>11 Q. Right. So I'm not asking whether you're</p> <p>12 holding things against them. I'm actually just,</p> <p>13 right now, asking for your view.</p> <p>14 And it's -- it's your view that King of the</p> <p>15 Cage was never on the level of the UFC; correct?</p> <p>16 A. That was my opinion.</p> <p>17 Q. And it's also your view that Bellator was</p> <p>18 never on the level of the UFC?</p> <p>19 A. No, that's not my opinion.</p> <p>20 Q. They -- they, in your view, are on level</p> <p>21 with the UFC?</p> <p>22 A. Yeah, they have fighters who are in the top</p> <p>23 15, in everybody's opinion --</p> <p>24 Q. So --</p> <p>25 A. -- so they're obviously a force.</p>	<p style="text-align: right;">148</p> <p>1 SILVA</p> <p>2 15.</p> <p>3 Q. All right. Would you agree with me that</p> <p>4 from 2007 to 2012, Bellator had far fewer athletes in</p> <p>5 the top 10 or 15 of the weight classes than the UFC;</p> <p>6 correct?</p> <p>7 A. Yes. We had more fighters that were</p> <p>8 considered in the top 15.</p> <p>9 Q. And during 2007 to 2012, the UFC also had</p> <p>10 more shows than Bellator; correct?</p> <p>11 A. We did have more shows.</p> <p>12 Q. Other than Bellator, can you identify</p> <p>13 another promotion that was on the level of the UFC in</p> <p>14 your opinion?</p> <p>15 A. That's out there at this moment?</p> <p>16 Q. Yeah.</p> <p>17 A. I'd say that they're the top. You have now</p> <p>18 the recently rebranded World Series of Fighting</p> <p>19 would -- would be another high ranking one. And they</p> <p>20 had guys who are cracking the rankings, as like</p> <p>21 Justin Gaethje and -- so, yeah, they were -- they</p> <p>22 were an up-and-comer.</p> <p>23 Q. They're an up-and-comer. Not on the level</p> <p>24 of the -- level of the UFC just yet?</p> <p>25 A. Once again, they've been around way less</p>
<p style="text-align: right;">147</p> <p>1 SILVA</p> <p>2 Q. They are a force.</p> <p>3 They have far fewer fighters in the top 15</p> <p>4 than the UFC does; correct?</p> <p>5 A. I'd have to look at the current rankings to</p> <p>6 see the exact number, but they do have</p> <p>7 representation. They have, at the moment, less shows</p> <p>8 than we do.</p> <p>9 Q. They have less shows.</p> <p>10 A. But they've also been doing it way less time</p> <p>11 than we do. If you look at the amount of time that</p> <p>12 they've been around and how many shows they're doing,</p> <p>13 compared to the amount of shows we were doing at that</p> <p>14 time, they were probably doing more than we were.</p> <p>15 Q. So Bellator does fewer shows than the UFC</p> <p>16 and it continues to have fewer of the top 10 or 15</p> <p>17 athletes in every division than the UFC?</p> <p>18 A. But they continue to gain --</p> <p>19 MR. ISAACSON: Object --</p> <p>20 A. -- every year.</p> <p>21 MR. ISAACSON: Objection to form.</p> <p>22 Q. Okay. But it continues to have fewer</p> <p>23 athletes in the top division than the UFC?</p> <p>24 A. No, it does not continue. It continues to</p> <p>25 grow. They continue to get more fighters in the top</p>	<p style="text-align: right;">149</p> <p>1 SILVA</p> <p>2 time.</p> <p>3 Q. Okay. And at some point they might be on</p> <p>4 the level of the UFC, but they're not --</p> <p>5 A. Possible.</p> <p>6 Q. But they're not right now; correct?</p> <p>7 A. Not at the moment.</p> <p>8 Q. All right. So you said World Series of</p> <p>9 Fighting, and Bellator.</p> <p>10 Would -- would another entity during the</p> <p>11 history of your experience at MMA that was</p> <p>12 potentially on the level of the UFC be Strikeforce?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And the UFC acquired Strikeforce;</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And another entity that was potentially on</p> <p>18 the level of UFC was Pride; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And the UFC acquired Pride; correct?</p> <p>21 A. Yes.</p> <p>22 Q. And another entity that was potentially on</p> <p>23 the level was WEC; is that right?</p> <p>24 A. It was just different. This -- all our</p> <p>25 plans for it were -- it was like an alternate to UFC,</p>

<p style="text-align: right;">150</p> <p>1 SILVA</p> <p>2 that you would have weight classes that UFC didn't</p> <p>3 have. The other ones are more apples-to-apples</p> <p>4 comparisons. That was kind of a little bit more of</p> <p>5 an apples to oranges.</p> <p>6 Q. Little apples to oranges.</p> <p>7 And the UFC and Zuffa purchased WEC;</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 MR. CRAMER: All right. Why don't we take</p> <p>11 a five-minute break.</p> <p>12 THE WITNESS: Okay.</p> <p>13 THE VIDEOGRAPHER: We're off the record at</p> <p>14 10:58.</p> <p>15 (Recess taken at 10:58 a.m., proceedings</p> <p>16 resumed at 11:07 a.m.)</p> <p>17 THE VIDEOGRAPHER: Here begins Media</p> <p>18 Number 3 in the video-recorded deposition of</p> <p>19 Joseph Silva. We're back on the record at</p> <p>20 11:07.</p> <p>21 BY MR. CRAMER:</p> <p>22 Q. I asked you a series of questions just</p> <p>23 before the break about MMA promotions that in your</p> <p>24 opinion were at or near the level of the UFC between</p> <p>25 2007 and 2012. And I just want to bring that up</p>	<p style="text-align: right;">152</p> <p>1 SILVA</p> <p>2 head.</p> <p>3 Q. Okay. I'll represent to you that we believe</p> <p>4 that that's Sean Shelby's number.</p> <p>5 And do you -- and let me know if that's</p> <p>6 confirmed by the context of the conversation that we</p> <p>7 just -- that we look at in a moment.</p> <p>8 And then there's a number [REDACTED].</p> <p>9 Do you happen to know who that was?</p> <p>10 A. No.</p> <p>11 Q. Okay. All right. I'd like to draw your</p> <p>12 attention in particular to the text message that was</p> <p>13 sent to you by, we believe Sean Shelby.</p> <p>14 MR. MCSWEENEY: We don't have a page.</p> <p>15 A. Yeah, what page?</p> <p>16 Q. I'm sorry. Page 22 of 163 in Exhibit 6.</p> <p>17 And I'm looking at the third text on the page at</p> <p>18 19:26, 2/20/2015.</p> <p>19 And Shelby and one other person send you a</p> <p>20 text that says: "Can you tell me the level of these</p> <p>21 fighters please? Brian Ortega, Michael Prazeres,</p> <p>22 James Moontasri, Neil Magny."</p> <p>23 Do you see that?</p> <p>24 A. Oh. Yes.</p> <p>25 Q. Okay. Brian Ortega was a UFC fighter; is</p>
<p style="text-align: right;">151</p> <p>1 SILVA</p> <p>2 to -- to the present.</p> <p>3 So between 2012 and the present, am I right</p> <p>4 that in your opinion one MMA promotion that might</p> <p>5 have been at the same level of the UFC was Bellator?</p> <p>6 A. Yes.</p> <p>7 Q. And was there another MMA promotion between</p> <p>8 2012 and the present that in your view could have</p> <p>9 been on the same level as -- as the UFC?</p> <p>10 MR. ISAACSON: Objection to form.</p> <p>11 A. As I said, I think the World Series of</p> <p>12 Fighting was trying to establish themselves. They</p> <p>13 had not gotten there yet, but was definitely a</p> <p>14 possible contender.</p> <p>15 Q. So there's Bellator and the World Series of</p> <p>16 Fighting that was trying to be a contender?</p> <p>17 A. Yes.</p> <p>18 Q. All right. Turn to what was marked as Silva</p> <p>19 Exhibit 6, which is the compilation of text messages</p> <p>20 from your phone, I believe.</p> <p>21 A. Uh-huh.</p> <p>22 Q. And I believe we established that</p> <p>23 [REDACTED] was Sean Shelby's phone number. Do</p> <p>24 you recall that?</p> <p>25 A. I don't know his number off the top of my</p>	<p style="text-align: right;">153</p> <p>1 SILVA</p> <p>2 that right?</p> <p>3 A. Yes.</p> <p>4 Q. And was Michael Prazeres a UFC fighter?</p> <p>5 A. Prazeres, yes.</p> <p>6 Q. Okay. And James Moontasri?</p> <p>7 A. Yeah. Moontasri.</p> <p>8 Q. Moontasri. He's a UFC fighter?</p> <p>9 A. He was.</p> <p>10 Q. He was at this time?</p> <p>11 A. Yes.</p> <p>12 Q. And Neil Magny?</p> <p>13 A. Yes.</p> <p>14 Q. A UFC fighter at this time?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And then this must have been Shelby,</p> <p>17 because Shelby says, "Ortega is mine and was</p> <p>18 suspended for roids."</p> <p>19 Does that seem like Shelby?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And then Shelby says, "The rest are</p> <p>22 Joe's, but if you can't get a hold of him: Magny is A</p> <p>23 Other 2 are B."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">154</p> <p>1 SILVA</p> <p>2 Q. So Shelby is sending you a text and he's</p> <p>3 saying Ortega is mine, and that means, let me know if</p> <p>4 I'm wrong, that Ortega was in the weight classes that</p> <p>5 he oversaw?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And then Shelby says to you: "The</p> <p>8 rest are Joe's but if you can't get hold of him:</p> <p>9 Magny is A Other 2 are B."</p> <p>10 So Shelby is saying to someone --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- the rest of these fighters, meaning</p> <p>13 Prazeres and Moontasri and Magny, he's saying the</p> <p>14 rest are -- fall into Silva's weight class, or --</p> <p>15 that he's in charge of, but if you can't get hold of</p> <p>16 him, then Shelby is giving them ratings; is that</p> <p>17 right?</p> <p>18 A. Yes. I believe the other person is Melissa</p> <p>19 Hendrix.</p> <p>20 Q. Who's Melissa Hendrix?</p> <p>21 A. She used to work for us, but she -- what</p> <p>22 this is about is about tickets for guest fighters.</p> <p>23 Q. And what are the A -- what did the A, B --</p> <p>24 what do the A's and B designate?</p> <p>25 A. What she was asking is they have limited</p>	<p style="text-align: right;">156</p> <p>1 SILVA</p> <p>2 Q. Did you -- and -- and did those -- did you</p> <p>3 generally use A, B and C rankings to designate the</p> <p>4 relative quality and talent of fighters?</p> <p>5 A. No. This was a shorthand specifically for</p> <p>6 the people who are handling tickets, and it just made</p> <p>7 it easy -- easy shorthand for them to know. It's</p> <p>8 like, oh, I've got these good tickets, I have these</p> <p>9 better tickets, who should get what.</p> <p>10 Q. Did you have an internal shorthand system</p> <p>11 of, between you and Shelby or you and other</p> <p>12 executives at the UFC, that relatively ranked</p> <p>13 fighters?</p> <p>14 A. That we have rankings.</p> <p>15 Q. Other than the -- the ranking system that</p> <p>16 you referred to earlier.</p> <p>17 A. No.</p> <p>18 Q. Okay. All right. You can put that document</p> <p>19 aside.</p> <p>20 MR. CRAMER: All right. I would like to</p> <p>21 have marked as Silva Exhibit 12 the next</p> <p>22 document.</p> <p>23 (Silva Deposition Exhibit 12 marked for</p> <p>24 identification.)</p> <p>25 Q. So Silva Exhibit 12 is a February 2011</p>
<p style="text-align: right;">155</p> <p>1 SILVA</p> <p>2 amount of tickets for a guest and they can't all be</p> <p>3 in the same place. Some tickets are going to be</p> <p>4 better seating than others. Sort of like, out of</p> <p>5 this guest list, who are you ranking in terms of --</p> <p>6 you know, and it could be a day-to-day thing. You</p> <p>7 won your last fight and you look great, all right,</p> <p>8 that's going to move you up, temporarily give them</p> <p>9 the better seats, give the -- give them all tickets,</p> <p>10 but this is the priority, and this -- these are the</p> <p>11 descending priority.</p> <p>12 Q. So the A's and B's are the at-the-moment</p> <p>13 ranking of the fighter for purposes of certain</p> <p>14 privileges?</p> <p>15 A. Yeah. And it's also, though, within the</p> <p>16 context of who is an A out of this particular group.</p> <p>17 Somebody who would be an A out of this group of guys</p> <p>18 would not be an A if Jon Jones is there.</p> <p>19 Q. I see. So it's relative to the group that's</p> <p>20 being asked about?</p> <p>21 A. Correct.</p> <p>22 Q. And A is the top level, B is next, and C is</p> <p>23 under that?</p> <p>24 A. Right. Just as far as placement and seating</p> <p>25 for tickets.</p>	<p style="text-align: right;">157</p> <p>1 SILVA</p> <p>2 e-mail that you sent to Dana White, Lorenzo Fertitta</p> <p>3 and Sean Shelby, it bears the Bates range</p> <p>4 ZUF-00085896 through 901, and the subject of the</p> <p>5 e-mail is "We Own MMA." And as I said, it's dated</p> <p>6 February 12, 2011, at 9:39 a m.</p> <p>7 It -- am I correct that you sent this e-mail</p> <p>8 to Mr. White, Mr. Fertitta and Mr. Shelby?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall this e-mail?</p> <p>11 A. Yes.</p> <p>12 Q. Did you send this in the regular course of</p> <p>13 business?</p> <p>14 A. As opposed to?</p> <p>15 Q. As opposed to anything other than the</p> <p>16 regular course of business.</p> <p>17 Did you send this while you were working as</p> <p>18 part of your job at the UFC?</p> <p>19 A. Yes, I sent this to -- as part of my work.</p> <p>20 Q. Okay. Look at the center of the page, you</p> <p>21 can see that what you were doing was e-mailing or</p> <p>22 forwarding a story from the USA -- USA</p> <p>23 Today/SB Nation Consensus MMA Rankings.</p> <p>24 A. Uh-huh.</p> <p>25 Q. Is that right?</p>

<p style="text-align: right;">158</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. And those were the consensus MMA rankings of</p> <p>4 fighters at the time; is that right?</p> <p>5 A. Correct.</p> <p>6 Q. And these were the rankings that you and</p> <p>7 other MMA organizations used in -- in ranking</p> <p>8 fighters; is that right?</p> <p>9 A. Well, it's an example of what I used for the</p> <p>10 purpose of this e-mail. What I think anybody would</p> <p>11 use -- this is -- not everybody is going to use the</p> <p>12 consensus if the consensus doesn't benefit them.</p> <p>13 Q. Okay.</p> <p>14 A. If you are Strikeforce and one of the</p> <p>15 web sites had your fighters ranked higher, I'm sure</p> <p>16 you go, that is most credible poll. This is one I</p> <p>17 just grabbed in general, and it supported -- this was</p> <p>18 an e-mail that I sent most likely because my bosses</p> <p>19 like to bust my chops and just say, like, are you</p> <p>20 doing your job, are you going out there, are you</p> <p>21 trying to get the best talent, are you working hard,</p> <p>22 are you doing this and that. So it's in response to</p> <p>23 something like that. It's like, look, look how many</p> <p>24 good guys that I have gone out and gotten.</p> <p>25 Q. So you're showing your boss how successful</p>	<p style="text-align: right;">160</p> <p>1 SILVA</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And then this says -- now, did you</p> <p>5 write this compiling the rankings and --</p> <p>6 A. No.</p> <p>7 Q. No. Oh this was from --</p> <p>8 A. That's just -- that's copied off their web</p> <p>9 site. Just, I cut and pasted the whole thing, down</p> <p>10 the rankings.</p> <p>11 Q. Okay. And part of what you cut and pasted</p> <p>12 from the web site was language that said, "These</p> <p>13 world MMA rankings are the most accurate reflection</p> <p>14 of how the top fighters in MMA across all promotions</p> <p>15 like UFC, WEC, Affliction and Dream are viewed by the</p> <p>16 experts who cover the sport."</p> <p>17 Do you see that?</p> <p>18 A. Yeah.</p> <p>19 Q. Is -- do you have a basis to disagree with</p> <p>20 that?</p> <p>21 A. There are certainly people who did. There</p> <p>22 was a different ranking system called FightMetric who</p> <p>23 pointed out, saying that they found this system very</p> <p>24 flawed and that they went with a system that was</p> <p>25 statistical based rather than polling journalists.</p>
<p style="text-align: right;">159</p> <p>1 SILVA</p> <p>2 you and Shelby have been in getting the top fighters</p> <p>3 in the sport; is that right?</p> <p>4 A. Getting a lot of them, yes. As I put,</p> <p>5 detailed out, we certainly didn't have all of them,</p> <p>6 but in each weight class we had good representation</p> <p>7 in every weight class.</p> <p>8 Q. And the -- after the list of heavyweight,</p> <p>9 lightweight, et cetera, it says: "Compiling the</p> <p>10 rankings of twenty top mixed martial arts web sites,</p> <p>11 the USA Today/SB Nation Consensus MMA Rankings</p> <p>12 present the top 25 fighters in MMA for the seven</p> <p>13 major weight classes."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. So this was the consensus rankings of the</p> <p>17 top 20 web sites; is that right?</p> <p>18 A. Does it say -- does it say top 20? I'm not</p> <p>19 sure how they're ranking that.</p> <p>20 Q. Says compiling the rankings of 20 top mixed</p> <p>21 martial arts web sites.</p> <p>22 A. Yeah, that's their claim.</p> <p>23 Q. That's their claim.</p> <p>24 And you were using this evidence, this</p> <p>25 information, to tout your success to your bosses;</p>	<p style="text-align: right;">161</p> <p>1 SILVA</p> <p>2 So you could subscribe to their model.</p> <p>3 I don't know scientifically which one is</p> <p>4 better. In the end, it's all opinion. If it wasn't,</p> <p>5 all the web sites would be unanimous, and they</p> <p>6 weren't. That's why they had to crunch them together</p> <p>7 and see what was the average. But you didn't have</p> <p>8 every web site in agreement, yes, this is the precise</p> <p>9 ranking. This is just an average.</p> <p>10 Q. It was an average of 20 of the top web</p> <p>11 sites?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And you also said that there's</p> <p>14 another ranking system out there called FightMetrics?</p> <p>15 A. Yes.</p> <p>16 Q. And they have a database of fighters?</p> <p>17 A. Yes.</p> <p>18 Q. And they do a statistical ranking?</p> <p>19 A. Correct. Yes. They didn't base theirs off</p> <p>20 of opinions of journalists. They based it on what</p> <p>21 they claim are just cold, hard statistics, and that</p> <p>22 they felt that was a better measure.</p> <p>23 There were some things that I liked better</p> <p>24 in theirs and there's some things that didn't make</p> <p>25 sense to me. But that was the same with this kind of</p>

<p style="text-align: right;">162</p> <p>1 SILVA</p> <p>2 poll too. There was ones like, hmm, that seems high</p> <p>3 or that seems low, so -- but it's two different ways.</p> <p>4 I think it's just an imperfect science, but it gives</p> <p>5 you a decent general view.</p> <p>6 Q. So this compilation gives one a decent</p> <p>7 general view of the relative ranking of the top</p> <p>8 fighters, and FightMetrics gives you a decent</p> <p>9 relative view of the relative rankings of the top</p> <p>10 fighters; is that fair?</p> <p>11 MR. ISAACSON: Objection to form.</p> <p>12 A. Yeah, it would just -- because their results</p> <p>13 differ, I -- I do -- it would be hard to say -- how</p> <p>14 can you say they're both accurate when they come with</p> <p>15 different results. But I understand what they're</p> <p>16 trying to do. And to shoot back at my bosses and</p> <p>17 thump my chest, this is the one that helped me do</p> <p>18 that.</p> <p>19 Q. But you wouldn't -- you wouldn't disagree if</p> <p>20 someone used FightMetrics as a -- as a basis for</p> <p>21 evaluating fighters, that that was one at least</p> <p>22 potentially reliable way to evaluate and rank</p> <p>23 fighters; correct?</p> <p>24 MR. ISAACSON: Objection to form.</p> <p>25 A. Yeah. And people have come to me, if there</p>	<p style="text-align: right;">164</p> <p>1 SILVA</p> <p>2 guessing that somewhere in between the two you could</p> <p>3 probably get something closer.</p> <p>4 But in the end, it doesn't mean much other</p> <p>5 than -- you certainly know the -- these guys have</p> <p>6 achieved certain things, but I've seen so many where</p> <p>7 this guy is consensus number one and then he gets</p> <p>8 crushed in his next fight. It's like what did</p> <p>9 that --</p> <p>10 Q. Right.</p> <p>11 A. -- mean that he was. And it doesn't even</p> <p>12 mean that they are wrong, he was at that moment, but</p> <p>13 maybe that was his peak moment and it changed. So</p> <p>14 it's useful for some things.</p> <p>15 It was useful for me when they're going, are</p> <p>16 you out there working your butt off trying to find us</p> <p>17 the best talent. It's like, yes, I am, this</p> <p>18 represented I'm trying to -- to do as well as I can.</p> <p>19 Q. Okay. And what this information showed, as</p> <p>20 is summarized at the top, was that the UFC had 15 out</p> <p>21 of the top 25 heavyweights?</p> <p>22 A. Yes.</p> <p>23 MR. ISAACSON: Objection. Time frame.</p> <p>24 Q. In February 2011?</p> <p>25 A. Yes, at the time.</p>
<p style="text-align: right;">163</p> <p>1 SILVA</p> <p>2 was a fighter who was on FightMetric that, say, was</p> <p>3 not recognized as high as the other, certainly their</p> <p>4 manager is going, no, this is very credible.</p> <p>5 Q. And you would -- you would think, well,</p> <p>6 that's some evidence that that fighter has some</p> <p>7 credible argument --</p> <p>8 A. But mostly I would default to my own. It's</p> <p>9 like, I've seen them fight and this is my opinion,</p> <p>10 which my opinion could be wrong, but it's my opinion.</p> <p>11 Q. Is it fair to say that FightMetrics was used</p> <p>12 by some people in the industry as a basis for</p> <p>13 evaluating fighters?</p> <p>14 A. Yes. It was used by -- if they didn't have</p> <p>15 visitors and users, I'm sure they would have gone</p> <p>16 away. They've been around for a long time.</p> <p>17 Q. And who were the types of entities or people</p> <p>18 in the industry that used FightMetrics to evaluate</p> <p>19 fighters?</p> <p>20 A. I think there are some people who, just fans</p> <p>21 of a statistical model, that idea appealed to them.</p> <p>22 There's other people who feel like no, there's a lot</p> <p>23 of gray areas and other factors that -- that you</p> <p>24 should take into account. But it's just -- it's a</p> <p>25 difference of philosophy on it. And I -- I'm</p>	<p style="text-align: right;">165</p> <p>1 SILVA</p> <p>2 Q. At the time.</p> <p>3 And in February 2011, it had six out of the</p> <p>4 top ten heavyweights; is that right?</p> <p>5 A. Yes.</p> <p>6 Q. And then for the light heavyweights, the UFC</p> <p>7 had 19 out of the top 25 lightweight -- light</p> <p>8 heavyweights; is that right?</p> <p>9 A. Yes.</p> <p>10 Q. And nine out of the top ten; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. And in 2011, UFC had 18 out of 25 of the top</p> <p>13 middleweights; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And 8 out of the top 10 middleweights; is</p> <p>16 that right?</p> <p>17 A. Yep.</p> <p>18 Q. And it had 21 out of the 25 top</p> <p>19 welterweights; isn't that right?</p> <p>20 A. Yes.</p> <p>21 Q. And the UFC had 8 out of the top 10</p> <p>22 welterweights; isn't that right?</p> <p>23 A. Yes.</p> <p>24 Q. And UFC had 17 out of the top 25</p> <p>25 lightweights; isn't that right?</p>

<p style="text-align: right;">166</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. And 6 out of the top 10 lightweights;</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And it had 14 out of the top 25</p> <p>7 featherweights; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And 6 out of the top 10 featherweights;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And bantamweights, it had 17 out of the top</p> <p>13 25; correct?</p> <p>14 A. Yes.</p> <p>15 Q. And 9 out of the top 10; correct?</p> <p>16 A. Yes.</p> <p>17 Q. All right. Now, it's fair to say if you</p> <p>18 look at the list below, that this list was only</p> <p>19 counting as part of the UFC, fighters who were --</p> <p>20 that -- at that time fighting with the UFC; correct?</p> <p>21 In other words, it didn't count Strikeforce</p> <p>22 fighters as part of the UFC for the purposes of these</p> <p>23 numbers that I just read to you?</p> <p>24 So for example, look at heavyweight MMA,</p> <p>25 you'll see, at the bottom of the page, number one is</p>	<p style="text-align: right;">168</p> <p>1 SILVA</p> <p>2 would change the rankings.</p> <p>3 Q. It would change the rankings.</p> <p>4 But you would agree that if you take the UFC</p> <p>5 and you add Strikeforce, that would mean that the UFC</p> <p>6 and Strikeforce together, in January 27, 2011, had 21</p> <p>7 of the top 25 heavyweights; correct?</p> <p>8 A. No.</p> <p>9 Q. Yes?</p> <p>10 A. If we would have acquired them at the date</p> <p>11 that this came out, then yes, we would have that</p> <p>12 many.</p> <p>13 Q. So if you -- let me just ask it this way.</p> <p>14 If you add the UFC to the Strikeforce fighters for</p> <p>15 heavyweights, UFC plus Strikeforce gives you 21 out</p> <p>16 of the top 25 heavyweights; correct?</p> <p>17 A. You would have to count them up. I'm not</p> <p>18 doing that.</p> <p>19 Q. Well, UFC world heavyweight, 15 out of 25,</p> <p>20 right, at the top?</p> <p>21 A. Uh-huh.</p> <p>22 Q. And if you look at the bottom of the page,</p> <p>23 there's six Strikeforce fighters; right?</p> <p>24 A. Okay.</p> <p>25 Q. So you add 15 plus 6, equals 21; right?</p>
<p style="text-align: right;">167</p> <p>1 SILVA</p> <p>2 Cain Velasquez, but if you look at 7, it says</p> <p>3 Alistair Overeem, Strikeforce.</p> <p>4 A. Uh-huh. I don't -- I'm not clear on time</p> <p>5 frame. Like, so, did we have Strikeforce, had we</p> <p>6 acquired them at that -- that time.</p> <p>7 Q. Whether or not you did, as of --</p> <p>8 A. No, it does matter. If we had acquired them</p> <p>9 when I said that we have, then that would included.</p> <p>10 Q. Okay.</p> <p>11 A. If we had not acquired them, then it would</p> <p>12 not include that.</p> <p>13 Q. Okay. Fair -- fair enough. I understand.</p> <p>14 So in order -- at -- if at this time, in</p> <p>15 January 27, 2011, or shortly thereafter, the UFC had</p> <p>16 or was about to acquire Strikeforce, then the correct</p> <p>17 number that the UFC had of the top 25 heavyweights</p> <p>18 would be 21 out of the top 25; correct?</p> <p>19 You add the 15 out of the top 25 that --</p> <p>20 that's UFC, and then you add 6 Strikeforce, Werdum,</p> <p>21 Overeem, Silva, Barnett, Rogers; correct?</p> <p>22 A. But we had not acquired it yet.</p> <p>23 Q. Right. But I'm just saying if -- if you</p> <p>24 had --</p> <p>25 A. Well, also that would be a later date, which</p>	<p style="text-align: right;">169</p> <p>1 SILVA</p> <p>2 A. Yeah.</p> <p>3 Q. So UFC plus Strikeforce, in January of 2011,</p> <p>4 would give you 21 of the top 25 heavyweights;</p> <p>5 correct? Would give UFC plus Strikeforce 21 of the</p> <p>6 top 25 heavyweights?</p> <p>7 A. Yes, except that that's still theoretical.</p> <p>8 Mike Russow, who's ranked number 23 here, could have</p> <p>9 dropped off of that. He's low on it. Within a month</p> <p>10 he could lose a fight and not be on there, so that</p> <p>11 would alter your number.</p> <p>12 Q. Yeah. I understand that.</p> <p>13 A. Same with Stefan Struve. Same with John</p> <p>14 Madsen.</p> <p>15 We also have -- of those top 25, we have the</p> <p>16 lowest ranked guys on there. And with one loss or</p> <p>17 one win from somebody in another organization, they'd</p> <p>18 get pushed out of that.</p> <p>19 So that's not necessarily -- even then after</p> <p>20 that we acquire Strikeforce doesn't mean that we have</p> <p>21 that many of the top.</p> <p>22 Q. I -- I understand.</p> <p>23 I'm just talking about as of January 2011,</p> <p>24 if you add Strikeforce and UFC fighters, Strikeforce</p> <p>25 plus UFC in January of 2011, gives the Strikeforce</p>

<p style="text-align: right;">170</p> <p>1 SILVA</p> <p>2 plus UFC 21 of the top 25 heavyweights; right?</p> <p>3 A. Yes, if you add that too.</p> <p>4 Q. And it's possible that if the UFC loses --</p> <p>5 if -- if, for example, Struve or Madsen or Russow,</p> <p>6 the bottom three of the top 25, fall out, it's</p> <p>7 possible that other UFC fighters fall in; correct?</p> <p>8 A. It's possible.</p> <p>9 Q. Okay. Now, for the next grouping, light</p> <p>10 heavyweight, UFC has 19 out of the top 25, and 9 out</p> <p>11 of the top 10. If we add UFC plus Strikeforce for</p> <p>12 light heavyweight, you'd get 24 out of the top 25;</p> <p>13 correct?</p> <p>14 A. Yeah, with the same reservations as before.</p> <p>15 Q. Right.</p> <p>16 A. Just, it does alter with time. But, yes, at</p> <p>17 that moment, if you add Strikeforce plus UFC, that's</p> <p>18 the number you get.</p> <p>19 Q. And for middleweight at that moment, UFC had</p> <p>20 18 out of the top 25, and Strikeforce had 4, you add</p> <p>21 them together, that's 22 of the top 25 were UFC and</p> <p>22 Strikeforce fighters; correct?</p> <p>23 A. Yes.</p> <p>24 Q. In welterweight, UFC had 21 out of the top</p> <p>25 25, and Strikeforce had 2. So UFC plus Strikeforce,</p>	<p style="text-align: right;">172</p> <p>1 SILVA</p> <p>2 Own MMA," what did you mean?</p> <p>3 A. I meant it to Dana and Lorenzo as like look</p> <p>4 how many -- if you're asking are we doing our job in</p> <p>5 trying to find top talent, look how many people these</p> <p>6 reporters say are the top talent that we have.</p> <p>7 Q. And you would agree that 21 out of the top</p> <p>8 25 heavyweights is the vast majority of top</p> <p>9 heavyweights?</p> <p>10 A. Yes.</p> <p>11 Q. Would you also agree that in or about this</p> <p>12 time in January of 2011, if you just look at this</p> <p>13 list, Bellator had very few of the top fighters in</p> <p>14 any of these divisions?</p> <p>15 A. At that time. But they grew.</p> <p>16 Q. They grew later?</p> <p>17 A. Yes.</p> <p>18 Q. But at this time, it's really Strikeforce</p> <p>19 that has the -- the most -- sort of the second after</p> <p>20 UFC in terms of the number of fighters in the -- in</p> <p>21 the top of these divisions; is that right?</p> <p>22 A. Yes. It shifted over. Scott Coker worked</p> <p>23 for Strikeforce and would then go on to work for</p> <p>24 Bellator.</p> <p>25 Q. At this time, though, he was working for</p>
<p style="text-align: right;">171</p> <p>1 SILVA</p> <p>2 in January of 2011, those two combined had 23 of the</p> <p>3 top 25 fighters in welterweight; correct?</p> <p>4 A. Yes.</p> <p>5 Q. And lightweight, UFC had 17 out of the top</p> <p>6 25, and Strikeforce had 3. You add those together,</p> <p>7 Strikeforce and UFC in January of 2011 had 20 of the</p> <p>8 top 25 lightweights; correct?</p> <p>9 A. Yes.</p> <p>10 Q. And featherweights, UFC had 14 out of the</p> <p>11 top 25, I think Strikeforce had none. In</p> <p>12 bantamweight, UFC had 17 out of the top 25, and</p> <p>13 Strikeforce had none.</p> <p>14 Am I right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. When you wrote "We Own MMA" to your</p> <p>17 bosses, the "we" was the UFC; correct?</p> <p>18 A. It was Zuffa.</p> <p>19 Q. Zuffa. And any entity that was fighting</p> <p>20 under the -- the promotional banner of Zuffa. And</p> <p>21 that might be UFC, it might have been Strikeforce at</p> <p>22 the time, depending upon the -- the date of</p> <p>23 acquisition?</p> <p>24 A. Right, or WEC.</p> <p>25 Q. Or WEC. And when you -- when you said, "We</p>	<p style="text-align: right;">173</p> <p>1 SILVA</p> <p>2 Strikeforce?</p> <p>3 A. Yes.</p> <p>4 Q. And Strikeforce was the second largest</p> <p>5 U.S. -- MMA promoter in the United States?</p> <p>6 A. Yes.</p> <p>7 Q. And so when Zuffa purchased Strikeforce,</p> <p>8 it -- it took out its largest competitor at the time;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. All right. Now, Zuffa purchased Strikeforce</p> <p>12 I believe in March of 2011. Does that ring a bell?</p> <p>13 A. No.</p> <p>14 Q. No. Okay. I'll represent to you that I</p> <p>15 think that's the date.</p> <p>16 A. Okay.</p> <p>17 Q. Would you agree with me that after the</p> <p>18 Strikeforce acquisition, the share of the top 25</p> <p>19 fighters in several weight classes with contracts</p> <p>20 owned by Zuffa went up?</p> <p>21 A. Yes.</p> <p>22 Q. So the purchase of Strikeforce increased the</p> <p>23 UFC's position in the sport of MMA, that's one of the</p> <p>24 reasons for the purchase; right?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">174</p> <p>1 SILVA</p> <p>2 Q. In -- in your words to -- to Dana and</p> <p>3 Lorenzo, the purchase of Strikeforce increased the</p> <p>4 UFC's ownership of the sport; correct?</p> <p>5 A. That was not the statement of that, for</p> <p>6 them -- buying Strikeforce was not my idea, so I</p> <p>7 could not lay claim to that with this e-mail where</p> <p>8 I'm chest-thumping and trying to make myself look</p> <p>9 good. You -- you can't really count that. So that's</p> <p>10 why I -- one, I don't think that I was -- this e-mail</p> <p>11 was about acquiring Strikeforce. I don't think that</p> <p>12 we had acquired it then.</p> <p>13 Q. Okay.</p> <p>14 A. So I'm not bragging about anybody from</p> <p>15 Strikeforce, I didn't get those people. So I'm</p> <p>16 bragging about the people that I actually -- me and</p> <p>17 Sean got -- acquired ourselves.</p> <p>18 Q. So one way -- one thing you're bragging</p> <p>19 about was your ability to bring in top talent and the</p> <p>20 majority of the top fighters in all of these</p> <p>21 divisions, and another way that Zuffa brought in top</p> <p>22 talent was purchasing Strikeforce?</p> <p>23 A. Yes.</p> <p>24 Q. World Series of Fighting is an MMA</p> <p>25 promotion?</p>	<p style="text-align: right;">176</p> <p>1 SILVA</p> <p>2 Q. Silva 13. So Silva 13 is a compilation of</p> <p>3 texts that were produced to us by Zuffa under the</p> <p>4 Bates range ZFL-2699683. And I believe they're from</p> <p>5 Sean Shelby. So it's a compilation of text messages</p> <p>6 produced by Zuffa on behalf of Sean Shelby.</p> <p>7 MR. CRAMER: And what page?</p> <p>8 (Discussion off the record.)</p> <p>9 MR. CRAMER: Okay. All right. Let's do</p> <p>10 72. We can put that aside for a moment.</p> <p>11 All right. Let's mark as the next</p> <p>12 document Silva Exhibit 14.</p> <p>13 (Silva Deposition Exhibit 14 marked for</p> <p>14 identification.)</p> <p>15 Q. All right. Silva 14 is one page, including</p> <p>16 a series of e-mails that bears the Bates range</p> <p>17 ZFL-0826818. At the bottom of the page is an</p> <p>18 October 2014 e-mail from Andrea Fabrizio to you and</p> <p>19 Sean Shelby.</p> <p>20 Fabrizio at that time was Dana White's</p> <p>21 assistant?</p> <p>22 A. Yes.</p> <p>23 Q. And she writes: "Please see attached WSOF</p> <p>24 Fighter Roster."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">175</p> <p>1 SILVA</p> <p>2 A. Yes. They've -- they've now changed their</p> <p>3 name to something else.</p> <p>4 Q. What is their name now?</p> <p>5 A. I don't recall.</p> <p>6 Q. Okay. Do you recall when they changed their</p> <p>7 name?</p> <p>8 A. I think within the last month or so.</p> <p>9 Q. Okay. And do you recall that in or about</p> <p>10 the fall of 2014 Zuffa got its hands on a list of</p> <p>11 World Series of Fighting's roster and fighter</p> <p>12 compensation?</p> <p>13 A. I do.</p> <p>14 Q. You did -- you do recall?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Do you recall how that came into your</p> <p>17 or someone at Zuffa's possession?</p> <p>18 A. I don't recall exactly. I know I was simply</p> <p>19 shown that this is their roster. I think I was asked</p> <p>20 my opinion on their roster.</p> <p>21 Q. Okay.</p> <p>22 MR. CRAMER: All right. I'd like to mark</p> <p>23 as the next exhibit Silva 13.</p> <p>24 (Silva Deposition Exhibit 13 marked for</p> <p>25 identification.)</p>	<p style="text-align: right;">177</p> <p>1 SILVA</p> <p>2 A. Uh-huh. Yes.</p> <p>3 Q. So this is the incident where somehow people</p> <p>4 at Zuffa got ahold of World Series of Fighting's</p> <p>5 roster; is that right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And in the middle of the page you</p> <p>8 write to Shelby and Dana White and Lorenzo Fertitta</p> <p>9 saying, on October 8, 2014, at the end of the first</p> <p>10 sentence there you say, "WSOF is where all the</p> <p>11 fighters that we didn't want or got rid of went."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What do you mean by that?</p> <p>15 A. They certainly -- there's a lot of people</p> <p>16 who had been in the UFC who were released from the</p> <p>17 UFC who were then picked up by World Series of</p> <p>18 Fighting.</p> <p>19 Q. So the World Series of Fighting at that time</p> <p>20 included a collection of fighters that either you</p> <p>21 didn't want at the UFC or that you had released; is</p> <p>22 that fair?</p> <p>23 A. They also had other fighters too, but they</p> <p>24 had taken a lot of fighters that I had released. So</p> <p>25 to reacquire them quickly -- and there's fighters</p>

<p style="text-align: right;">178</p> <p>1 SILVA</p> <p>2 that have been released from the UFC all throughout</p> <p>3 the history, hundreds of them, who were released from</p> <p>4 the UFC, fought outside the UFC, and made their way</p> <p>5 back to the UFC.</p> <p>6 But my main concern here, number one thing I</p> <p>7 said was, definitely don't have room on the roster</p> <p>8 for an influx of new fighters. And that -- that's</p> <p>9 the overriding concern for me, is trying to manage</p> <p>10 that number. So, yeah, for fighters, like, if I cut</p> <p>11 him recently, how are we going to bring him right</p> <p>12 back in when we --</p> <p>13 Q. Right.</p> <p>14 A. -- deal with that.</p> <p>15 Q. So it's fair to say that -- that at least</p> <p>16 with respect to these fighters that you were</p> <p>17 referring to at the World Series of Fighting, it</p> <p>18 included a collection of people that -- that had left</p> <p>19 the UFC because you had released them; is that right?</p> <p>20 A. There was a number of their fighters that</p> <p>21 had been released from the UFC.</p> <p>22 Q. Right. And you said you didn't have room on</p> <p>23 your roster to take them back; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. You also said: "Tons of boring guys."</p>	<p style="text-align: right;">180</p> <p>1 SILVA</p> <p>2 judges' eyes who the winner was, so that's kind of on</p> <p>3 you.</p> <p>4 Q. All right. Below that you say: "The only</p> <p>5 guy they have in my weight classes that I'm</p> <p>6 interested in is Justin Gaethje" --</p> <p>7 A. Yes.</p> <p>8 Q. -- "undefeated lightweight. He has his</p> <p>9 first real test coming up next week when he fights</p> <p>10 Melvin Gaillard."</p> <p>11 Melvin Gaillard was a former UFC fighter?</p> <p>12 A. Yes.</p> <p>13 Q. And when you said that Gaillard would be</p> <p>14 Gaethje's first real test, you meant that Gaethje was</p> <p>15 going to fight someone who at least at some point was</p> <p>16 close to being a UFC caliber fighter?</p> <p>17 A. Well, he was a UFC caliber fighter at one</p> <p>18 time. He's fought many times in the UFC. So it --</p> <p>19 it's a measuring stick because this is a person</p> <p>20 you're very familiar with.</p> <p>21 And there's different levels of it. If he</p> <p>22 just -- if Melvin was cut from the UFC because he</p> <p>23 wasn't doing it to just squeak out a victory over</p> <p>24 him, still might not be that impressive. It's like,</p> <p>25 but Melvin's not competing at UFC level right now,</p>
<p style="text-align: right;">179</p> <p>1 SILVA</p> <p>2 What does that mean?</p> <p>3 A. I think that Ali -- we would joke, Ali is a</p> <p>4 good guy, but he seemed to want to manage the -- a</p> <p>5 majority of the safety-first type of -- of fighters,</p> <p>6 not the kind of fighters that the fans were generally</p> <p>7 clamoring to see, people who just did just enough to</p> <p>8 try and squeak out a decision. Not that they were</p> <p>9 untalented guys, especially they were talking about</p> <p>10 how many were in the UFC. I thought they were</p> <p>11 talented enough to give them a shot. But they did</p> <p>12 not perform and they were not exciting in their</p> <p>13 failure to perform.</p> <p>14 Q. And so you cut them and they ended up at</p> <p>15 World Series of Fighting?</p> <p>16 A. Yes, a number of them.</p> <p>17 Q. And what is a safety-first fighter?</p> <p>18 A. That -- somebody who is trying to do as</p> <p>19 little as possible to squeak out a win, which I</p> <p>20 understand the -- the want to take as little risk as</p> <p>21 possible, but the danger is it's a very subjective</p> <p>22 sport. These are also then the type that if a</p> <p>23 decision doesn't go their way, will complain about</p> <p>24 it, but it's like but you made it so close. You did</p> <p>25 not put forth an extra effort to make it clear in the</p>	<p style="text-align: right;">181</p> <p>1 SILVA</p> <p>2 but if -- he's a still a very tough guy, and if he</p> <p>3 was to look impressive against him, then you go, oh,</p> <p>4 he is -- yeah, he's definitely somebody interesting.</p> <p>5 Q. Right. So if Gaethje were to be impressive</p> <p>6 against someone who at least at one point was a</p> <p>7 UFC-level talent, that would potentially impress you?</p> <p>8 A. Yes.</p> <p>9 Q. And you might potentially then seek to sign</p> <p>10 him at the UFC?</p> <p>11 A. Yes. Well, I was saying of the people who</p> <p>12 they had on their roster, he was the one that I was</p> <p>13 most interested in.</p> <p>14 Q. Right. So the U -- the World Series of</p> <p>15 Fighting had a bunch of people you didn't want or got</p> <p>16 rid of, and the one exception was Gaethje?</p> <p>17 A. And that's of my weight classes. Don't</p> <p>18 forget, I'm not passing up Marlon Morias, but he was</p> <p>19 not in my weight class, so I would not comment on</p> <p>20 him. That would be like left to Sean to go, well,</p> <p>21 these are the guys that I like.</p> <p>22 Q. I see.</p> <p>23 A. So it's not that that was the only fighter</p> <p>24 on the whole roster, that was the fighter of the</p> <p>25 weight classes that I do that I was interested in.</p>

<p style="text-align: right;">182</p> <p>1 SILVA</p> <p>2 Q. And so one of the things you do as a -- as</p> <p>3 the senior VP of talent is you look out at other MMA</p> <p>4 promotions and you look for people who you think</p> <p>5 might be ready for the UFC; right?</p> <p>6 A. Yes.</p> <p>7 Q. And then you seek to recruit those people to</p> <p>8 the UFC, is that right, if -- if they're ready?</p> <p>9 A. Well, I don't -- I'm always very cautious</p> <p>10 not to interfere with somebody's contract.</p> <p>11 Generally, if -- if somebody becomes available,</p> <p>12 they'll reach out to me.</p> <p>13 Q. I see. Okay. So if someone at another</p> <p>14 promotion becomes available because their end of</p> <p>15 their -- their contract has ended, then they'll</p> <p>16 contact you; and if they're someone that is, you</p> <p>17 believe, of UFC caliber, you might engage in</p> <p>18 negotiations?</p> <p>19 A. Yes. I think the -- fighters will want to</p> <p>20 test free agency, so they may contact Bellator, they</p> <p>21 may contact me, but they're not going to do it until</p> <p>22 they're able to; or every now and then they wouldn't,</p> <p>23 and I would remind them, get back to me when you</p> <p>24 legally can.</p> <p>25 Q. Right.</p>	<p style="text-align: right;">184</p> <p>1 SILVA</p> <p>2 Q. It's in the -- would you agree that it would</p> <p>3 be in the interest of fighters to be able to test</p> <p>4 free agency just to see if they could get a -- a</p> <p>5 counteroffer?</p> <p>6 MR. ISAACSON: Objection. Calls for</p> <p>7 opinion. Form.</p> <p>8 A. Yeah, I think our contracts have provisions</p> <p>9 for that at the end of the contract.</p> <p>10 Q. You're referring to the right to match</p> <p>11 provision?</p> <p>12 A. That's just -- the contracts don't last</p> <p>13 forever, so you will eventually -- if that's your</p> <p>14 choice, you will, and fighters have, gone to free</p> <p>15 agency.</p> <p>16 Q. So the contracts don't last forever. It's</p> <p>17 fair to say that at the end of the term of a contract</p> <p>18 that it's your understanding that Zuffa has a 90-day</p> <p>19 exclusive negotiation period?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And during that period, Zuffa is</p> <p>22 the only one who can bid on the services of that</p> <p>23 fighter; is that correct?</p> <p>24 A. That is my understanding.</p> <p>25 Q. And then there is a year period called the</p>
<p style="text-align: right;">183</p> <p>1 SILVA</p> <p>2 A. I don't want to talk to you till you're free</p> <p>3 to talk to me.</p> <p>4 Q. Right. When you use the term "free agency,"</p> <p>5 what did you mean?</p> <p>6 A. Just that they want to see the other offers</p> <p>7 that are out there. They might choose to stay with</p> <p>8 the World Series, or if they find a better offer from</p> <p>9 the UFC or from Bellator or from whoever else.</p> <p>10 And every now and then you'll get one from</p> <p>11 1FC or from KSW that is not of the norm, but they</p> <p>12 just decide I like that guy and we're going to bid on</p> <p>13 him. But you won't know until you put feelers out</p> <p>14 there.</p> <p>15 Q. And from the fighter's perspective, some of</p> <p>16 them want to test free agency so that they can have a</p> <p>17 number of different promotions bidding for their</p> <p>18 services; is that right?</p> <p>19 MR. ISAACSON: Objection. Calls for</p> <p>20 speculation.</p> <p>21 A. Yeah, I would say that some do. Some --</p> <p>22 some feel reassured just to -- you know, just sign me</p> <p>23 up where I'm now, this is where I'm happy. And some</p> <p>24 go, no, I'm interested in seeing what other people</p> <p>25 have to say.</p>	<p style="text-align: right;">185</p> <p>1 SILVA</p> <p>2 right-to-match period; is that your understanding?</p> <p>3 A. Yes.</p> <p>4 Q. And during that period, the fighter is able</p> <p>5 to field offers from other promotions, but Zuffa has</p> <p>6 the right to match that offer; is that right?</p> <p>7 A. That is correct.</p> <p>8 Q. And if Zuffa matches that offer, then that</p> <p>9 fighter is obliged to then re-sign with Zuffa; is</p> <p>10 that right?</p> <p>11 A. I believe so.</p> <p>12 Q. So during that 15-month period, if there's a</p> <p>13 fighter that Zuffa wants to keep, it has the option</p> <p>14 of keeping him as long as Zuffa matches any offer</p> <p>15 during that right-to-match period; correct?</p> <p>16 A. Yes.</p> <p>17 Q. Would you agree with me that 15 months is a</p> <p>18 long time in an MMA fighter's career, especially</p> <p>19 during the peak of a MMA fighter's career?</p> <p>20 MR. ISAACSON: Objection to form.</p> <p>21 A. No, in that if you -- if the idea is that</p> <p>22 you want to see how you can get the best deal, you</p> <p>23 are getting that best deal within that, if we have</p> <p>24 the right to match. If it's after the 90-day</p> <p>25 exclusive period, and another promotion says, we can</p>

<p style="text-align: right;">186</p> <p>1 SILVA</p> <p>2 give you this much money, we either have to give them</p> <p>3 as much money or we have to let them go.</p> <p>4 Q. Let me ask it this way. Would you agree</p> <p>5 with me that if there was a UFC fighter who no longer</p> <p>6 wanted to fight with the UFC for some reason and the</p> <p>7 UFC was determined to match any offer, that that</p> <p>8 fighter, in order to get out from under the contract,</p> <p>9 would need to wait the 90 days of the exclusive</p> <p>10 negotiation period and then the 12 months of the</p> <p>11 right to match; correct?</p> <p>12 A. That's my understanding.</p> <p>13 Q. All right. And -- and waiting 15 months</p> <p>14 without fighting is a long time in a fighter's</p> <p>15 career; correct?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. Depends on the fighter.</p> <p>18 Q. Well, fighters are independent contractors;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And they -- they pay -- in general, they pay</p> <p>22 for their own health insurance; correct?</p> <p>23 A. We have a form of health insurance, yeah.</p> <p>24 Q. But that health insurance doesn't cover</p> <p>25 their families, for example; right?</p>	<p style="text-align: right;">188</p> <p>1 SILVA</p> <p>2 fighters in the lightweight class that would be able</p> <p>3 to give Gaethje an appropriate test?</p> <p>4 A. No. I think -- as I stated earlier, I</p> <p>5 think -- he was in the lightweight division, which I</p> <p>6 think is the deepest division in the world.</p> <p>7 Q. Uh-huh.</p> <p>8 A. I think that pretty much everybody has a</p> <p>9 decent one, but then to truly stand out -- it's not</p> <p>10 that you're not good, but you're just amongst the</p> <p>11 best.</p> <p>12 The worst lightweight that I have is pretty</p> <p>13 darn good. They're not getting by just on their</p> <p>14 size. There's so many, just to be in at all you --</p> <p>15 you must be at -- at a high level of talent.</p> <p>16 So it -- it's not that they didn't have good</p> <p>17 ones, but they did not generally have as many</p> <p>18 recognized people. With them competing amongst</p> <p>19 themselves, not as many had yet stood out, where</p> <p>20 Melvin Guillard was simply a known quantity.</p> <p>21 Q. Because he had been at the UFC?</p> <p>22 A. He'd been at the UFC, but he'd also fought</p> <p>23 in other shows around the world too.</p> <p>24 Q. Right.</p> <p>25 A. He's -- he's a veteran and he'd been around</p>
<p style="text-align: right;">187</p> <p>1 SILVA</p> <p>2 A. No.</p> <p>3 Q. And that they have to pay for their trainer;</p> <p>4 right?</p> <p>5 A. Generally the trainers will take a</p> <p>6 percentage from their purse. So if they're not</p> <p>7 getting a purse, then no.</p> <p>8 Q. The trainers aren't paid by the UFC;</p> <p>9 correct?</p> <p>10 A. No.</p> <p>11 Q. Correct, they're not paid by the UFC?</p> <p>12 A. Correct.</p> <p>13 Q. UFC doesn't pay fighters' trainers directly;</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. And the fighters, in general, pay for their</p> <p>17 own meals while they're training; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And their own travel while they're training;</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. When you said that the world's -- when you</p> <p>23 said that Gaethje's first real test coming up was</p> <p>24 Melvin Guillard, is it fair to say that the World</p> <p>25 Series of Fighting didn't have a lot of other</p>	<p style="text-align: right;">189</p> <p>1 SILVA</p> <p>2 and you knew of him, so he -- he made for a good</p> <p>3 measuring stick.</p> <p>4 Q. And the World Series of Fighting at that</p> <p>5 time, in the lightweight division, may have had a lot</p> <p>6 of other talented fighters, but it didn't have a lot</p> <p>7 of other known quantities like Melvin Guillard;</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. All right. Back to Exhibit 4, which is one</p> <p>11 of these -- here -- one of these text message</p> <p>12 compilations.</p> <p>13 Turn to page 39 of Exhibit 4. All right.</p> <p>14 I'd like -- this is from -- this is the compilation</p> <p>15 of text messages that was produced to us by Zuffa</p> <p>16 that I think came from Dana White's phones, and I'm</p> <p>17 referring to a series of texts from November 11th,</p> <p>18 2014. And there is a text at 2:30:24 that I'd like</p> <p>19 to refer to, from you to [REDACTED].</p> <p>20 A. Uh-huh.</p> <p>21 Q. Is that Dana White?</p> <p>22 A. I believe so.</p> <p>23 Q. Okay. So you say to Dana White on</p> <p>24 November 14, 2014, at 2:30 in the afternoon: "Melvin</p> <p>25 Guillard missed weight for his WSOF title fight. Now</p>

<p style="text-align: right;">190</p> <p>1 SILVA</p> <p>2 non title and supposedly Gaethje demanded 50 percent</p> <p>3 of his purse and got it."</p> <p>4 And then White says, "Where is the fight" --</p> <p>5 A. Tampa, Florida.</p> <p>6 Q. And Tampa, Florida.</p> <p>7 And then there's an e-mail [sic] that --</p> <p>8 that you send to White that says: "In the press</p> <p>9 conference the day before he said he is an A level</p> <p>10 fighter fighting in a B level show. Never was the</p> <p>11 smartest guy."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you mean when you said that Gaethje</p> <p>15 said he was an A-level fighter fighting in a B-level</p> <p>16 show?</p> <p>17 A. I don't think I was talking about Gaethje, I</p> <p>18 think I was talking about Melvin Guillard.</p> <p>19 Q. Okay. Guillard. So what did you mean when</p> <p>20 you said --</p> <p>21 A. I thought he was being disrespectful to the</p> <p>22 promotion that he's fighting in.</p> <p>23 Q. I see. So he was disrespecting World</p> <p>24 Series.</p> <p>25 A. Right. It's like they're giving you a shot</p>	<p style="text-align: right;">192</p> <p>1 SILVA</p> <p>2 Bellator so he wouldn't have to fight wrestlers like</p> <p>3 in the UFC."</p> <p>4 A. Uh-huh.</p> <p>5 Q. And then Silva -- and then you say -- Shelby</p> <p>6 says: "LOL. I just love how Bellator is a</p> <p>7 tournament based organi... Wait. What's going on?"</p> <p>8 And then you say: "2 guys who both lost</p> <p>9 their last 3 UFC fights."</p> <p>10 And then Shelby says: "Headlining a</p> <p>11 pay-per-view with two guys combined losing 9 of their</p> <p>12 last 10 fights."</p> <p>13 And then Shelby says: "Sorry last three a</p> <p>14 piece they total zero and six, 0 and 6."</p> <p>15 And then Shelby says: "They tried to throw</p> <p>16 a curve ball but it went into the stands."</p> <p>17 And you say to Shelby: "Dana is going to</p> <p>18 have fun smashing that matchup publicly."</p> <p>19 Do you see that?</p> <p>20 A. Yeah.</p> <p>21 Q. And then -- and then Shelby says to you:</p> <p>22 "Bellator throws a curve ball... Into the stands. In</p> <p>23 Bellator there is no matchmaking, except in their</p> <p>24 'was relevant 5 years ago' division."</p> <p>25 And Shelby then says to you: "It's almost</p>
<p style="text-align: right;">191</p> <p>1 SILVA</p> <p>2 and paying you good money, and you're publicly saying</p> <p>3 they're a B-level show, that doesn't seem very smart.</p> <p>4 Q. I see. So he was publicly dissing the World</p> <p>5 Series of Fighters --</p> <p>6 A. Yeah, who was giving them -- him a world</p> <p>7 title shot and -- and promoting him. I -- it was</p> <p>8 boggling to me. But Melvin -- he would be a nice</p> <p>9 guy, but he was a troubled guy. And that's just what</p> <p>10 I was saying. It's like a -- what's this kid doing.</p> <p>11 Q. Thank you. You can put that aside.</p> <p>12 All right. Let's turn back to Exhibit 13,</p> <p>13 page 275. And 13 is the compilation of text messages</p> <p>14 from Sean Shelby, and these are texts that were sent</p> <p>15 7/31/13. 275.</p> <p>16 All right. So the first message that I want</p> <p>17 to ask -- to show you is July 31st, 2013, at 1650, or</p> <p>18 4:50. Yeah, so 4:50. Tito versus Rampage. So it's</p> <p>19 the one that says, "Tito versus Rampage."</p> <p>20 A. Uh-huh.</p> <p>21 Q. And this is you saying to Shelby: "Tito</p> <p>22 versus Rampage. We might as well just close up shop</p> <p>23 now."</p> <p>24 And then -- and then you -- and then</p> <p>25 somebody else says: "Good thing Rampage went to</p>	<p style="text-align: right;">193</p> <p>1 SILVA</p> <p>2 too easy."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. All right. So both of you are communicating</p> <p>6 about a Bellator show that had just -- that was about</p> <p>7 to occur; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And that show was going to be headlined by</p> <p>10 Tito and Rampage?</p> <p>11 A. Yes.</p> <p>12 Q. Tito who?</p> <p>13 A. Ortiz.</p> <p>14 Q. Tito Ortiz. And Rampage Jackson?</p> <p>15 A. Correct.</p> <p>16 Q. Were both of those fighters who used to be</p> <p>17 in the UFC?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And Rampage went from the UFC to --</p> <p>20 oh, sorry.</p> <p>21 Rampage went from the UFC to Bellator; is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you were saying it's a good thing</p> <p>25 Rampage went to Bellator so he wouldn't have to fight</p>

<p style="text-align: right;">194</p> <p>1 SILVA</p> <p>2 wrestlers like in the UFC.</p> <p>3 What does that mean?</p> <p>4 A. That means that Rampage Jackson publicly</p> <p>5 criticized me for putting him against nothing but</p> <p>6 wrestlers, which I thought was bizarre because he</p> <p>7 fought many nonwrestlers, and he was a wrestler</p> <p>8 himself.</p> <p>9 When he got in trouble -- he liked to punch</p> <p>10 people, but if he got hurt, he then felt free to</p> <p>11 wrestle them. So that was my point and</p> <p>12 understanding. It's like, wait, you said you don't</p> <p>13 like my matchmaking, you fight too many wrestlers, so</p> <p>14 you go to Bellator to fight a wrestler. That seemed</p> <p>15 strange.</p> <p>16 Q. Okay. So you're pointing out that oddity.</p> <p>17 And then Shelby says to you: "LOL, I just</p> <p>18 love how Bellator is a tournament based organi...</p> <p>19 Wait. What's going on?"</p> <p>20 What was he saying there?</p> <p>21 A. The -- this was about -- this was before</p> <p>22 Scott Coker. This was back when Bjorn Rebney ran it.</p> <p>23 And they made it a very public point that they were</p> <p>24 different than the UFC, that they didn't do</p> <p>25 matchmaking, that everything they did was based on</p>	<p style="text-align: right;">196</p> <p>1 SILVA</p> <p>2 Q. And what -- what were you implying in this</p> <p>3 conversation about -- about the ability or the --</p> <p>4 the -- about use -- Bellator's using this fight to</p> <p>5 headline a Pay-Per-View with two guys who --</p> <p>6 A. Yeah.</p> <p>7 Q. -- lost nine out of the last ten fights?</p> <p>8 MR. ISAACSON: Objection to form.</p> <p>9 Q. I'm sorry. What point were you -- were you</p> <p>10 two making to each other in this communication?</p> <p>11 A. Once again, trying to --</p> <p>12 MR. ISAACSON: Objection to form.</p> <p>13 Q. You can answer.</p> <p>14 A. -- point out hypocrisy in that it's not that</p> <p>15 that was an unreasonable fight, it actually was a</p> <p>16 fight that made sense where those guys were in their</p> <p>17 career, but to have Bjorn Rebney try to degrade us</p> <p>18 publicly, saying we don't do just match-ups because</p> <p>19 we think they're cool match-ups, it's about the</p> <p>20 tournament.</p> <p>21 It's like wouldn't even be a problem him</p> <p>22 having on the show, but by his philosophy shouldn't</p> <p>23 they be on the show, but it's the tournament, the</p> <p>24 important thing, the thing that you say is so much a</p> <p>25 better a format, shouldn't that be your main event.</p>
<p style="text-align: right;">195</p> <p>1 SILVA</p> <p>2 tournaments, so the fighters really earned their</p> <p>3 spots. But this was an obvious break with that</p> <p>4 philosophy. It's like, they're not in a tournament</p> <p>5 and you're headlining them over the tournament. What</p> <p>6 happened to your great philosophy of tournaments were</p> <p>7 the thing, and -- and that was the most legitimate</p> <p>8 thing. So once again, just kind of pointing out what</p> <p>9 we saw as hypocrisy.</p> <p>10 Q. I see. So that Rebney was saying he's going</p> <p>11 to have this new model and it's going to based -- be</p> <p>12 based on tournaments, not traditional matchmaking?</p> <p>13 A. Yes.</p> <p>14 Q. And this was -- this particular fight was</p> <p>15 not a tournament?</p> <p>16 A. Correct.</p> <p>17 Q. And then you say to Shelby: "These" --</p> <p>18 "these 2 guys both lost their last 3 UFC fights," and</p> <p>19 you're referring to Rampage and Tito?</p> <p>20 A. Yes.</p> <p>21 Q. And then Shelby says: "Headlining a</p> <p>22 pay-per-view with two guys combined losing 9 of the</p> <p>23 last 10 fights."</p> <p>24 Again, that's referring to Rampage and Tito?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">197</p> <p>1 SILVA</p> <p>2 Shouldn't that be the important thing, to push the</p> <p>3 philosophy that you've put out there.</p> <p>4 So that's what we are needing them about,</p> <p>5 was they say this is what they believe, but their</p> <p>6 actions don't show that.</p> <p>7 Q. And -- and were you also communicating to</p> <p>8 each other that it's -- it's not a winning strategy</p> <p>9 in the MMA promotion business to headline a</p> <p>10 Pay-Per-View with two guys who had a combined losing</p> <p>11 record of nine of the last ten fights?</p> <p>12 A. It was not so much that, as that it was</p> <p>13 going against everything that Bjorn Rebney said. It</p> <p>14 wasn't about what we thought of it, it's what we</p> <p>15 thought of how this went exactly against what Bjorn</p> <p>16 Rebney was publicly saying.</p> <p>17 Q. So Shelby says, "they tried to throw a curve</p> <p>18 ball," which means divert from the tournament system;</p> <p>19 right?</p> <p>20 A. Yes.</p> <p>21 Q. But he also says, "then it went into the</p> <p>22 stands." So they throw this curve ball and it</p> <p>23 doesn't even work.</p> <p>24 A. Well --</p> <p>25 MR. ISAACSON: Objection to form.</p>

<p style="text-align: right;">198</p> <p>1 SILVA</p> <p>2 A. -- they had a lot of criticism about it</p> <p>3 publicly. They -- I think they just thought, well,</p> <p>4 people know these guys and they're former champions</p> <p>5 and they'll be happy to see it. But I think they got</p> <p>6 the same things that we were pointing out, a lot of</p> <p>7 people in the public pointing out. I think that's</p> <p>8 why he said it went into the stands, like maybe they</p> <p>9 thought this was going to be received well, but it</p> <p>10 wasn't.</p> <p>11 Q. And you say: "Dana is going to have fun</p> <p>12 smashing that matchup publicly."</p> <p>13 What did you mean by that?</p> <p>14 A. I thought he would have fun smashing it</p> <p>15 publicly.</p> <p>16 Q. Because it wasn't a good match-up?</p> <p>17 A. Well, it -- once again, it wasn't even about</p> <p>18 the match-up. It's not -- like I said, I don't --</p> <p>19 for where they were at in their careers and all, I</p> <p>20 don't think it was a bad match-up. But what -- it</p> <p>21 was going against what Bjorn Rebney said, how they</p> <p>22 were different from us and what their strategy would</p> <p>23 be. They're saying it's not about old guys and UFC</p> <p>24 doesn't have the best people, we do, and the</p> <p>25 tournament is a better way to prove that. But now</p>	<p style="text-align: right;">200</p> <p>1 SILVA</p> <p>2 Bjorn Rebney left Bellator, they ditched the</p> <p>3 tournament strategy.</p> <p>4 Q. What was wrong with the tournament strategy</p> <p>5 in your mind?</p> <p>6 A. Tournaments are just very tough. It's hard</p> <p>7 to ask fighters to fight more than once in a night.</p> <p>8 And it can be inherently unfair -- unfair, just</p> <p>9 because of the match-up. One opponent might have a</p> <p>10 match that lasts 30 seconds and then he's going to</p> <p>11 have to fight again later on that night against</p> <p>12 somebody who was in a war that went the distance.</p> <p>13 It -- we used to do tournaments in the UFC.</p> <p>14 I didn't think that just off the top of my head. I</p> <p>15 had experience through the early years of UFC's doing</p> <p>16 tournaments and why UFC stopped doing tournaments. I</p> <p>17 just saw the pitfalls of it.</p> <p>18 So then when he came out and was claiming,</p> <p>19 no, this is the best way, it's like, wow, I really</p> <p>20 disagree with that.</p> <p>21 Q. When you wrote, "we might as well just close</p> <p>22 up shop now," you were being sarcastic?</p> <p>23 A. Yes. I was known for being sarcastic.</p> <p>24 MR. CRAMER: Okay. Like to mark as the</p> <p>25 next document Silva Exhibit 15.</p>
<p style="text-align: right;">199</p> <p>1 SILVA</p> <p>2 we're deciding to put that ahead of our tournament.</p> <p>3 That's -- it was not the match itself. It was that</p> <p>4 they said that was not their model, but that's then</p> <p>5 what they're going with.</p> <p>6 Q. So they said their model wasn't taking kind</p> <p>7 of old UFC champions who are beyond their prime and</p> <p>8 fighting with each other, and then they headline an</p> <p>9 event with old UFC champions?</p> <p>10 A. Yes.</p> <p>11 Q. And you and Sean and Dana didn't think that</p> <p>12 was a good competitive choice for Bellator to make?</p> <p>13 MR. ISAACSON: Objection to form. Calls</p> <p>14 for speculation.</p> <p>15 Q. Is that right?</p> <p>16 A. Yeah, I don't -- it's -- it's not even that,</p> <p>17 it's that I didn't think the tournament format, which</p> <p>18 was their preferred thing, was the good way to go.</p> <p>19 But Bjorn had made it very clear strongly that he</p> <p>20 thought it was.</p> <p>21 So I was just saying, our point was, this is</p> <p>22 what they claim, but now they're not doing what they</p> <p>23 claimed. But it wasn't about that I thought it was</p> <p>24 wrong. What I actually thought was wrong was his</p> <p>25 original claim was the tournament strategy, and when</p>	<p style="text-align: right;">201</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 15 marked for</p> <p>3 identification.)</p> <p>4 Q. All right. We've marked this as Silva 15,</p> <p>5 this was separately produced, with the Bates number</p> <p>6 ZFL-1874494, and this is a text from you to Sean</p> <p>7 Shelby and I believe one other.</p> <p>8 Do you know who that other person was? Was</p> <p>9 it Dana White?</p> <p>10 MR. ISAACSON: Wait. Is this an extract</p> <p>11 from one of the other documents?</p> <p>12 MR. CRAMER: This was separately produced.</p> <p>13 You can see the Bates number at the bottom.</p> <p>14 It may also be in an -- an extract, but it was</p> <p>15 separately produced.</p> <p>16 MR. ISAACSON: Okay.</p> <p>17 Q. It's a text that you sent on October 17,</p> <p>18 2014, at 7:09 p m.</p> <p>19 Do you see that?</p> <p>20 A. Uh-huh. Yes.</p> <p>21 Q. Did you send that?</p> <p>22 A. Yes.</p> <p>23 Q. And this says: "Bellator headlined tonight</p> <p>24 with 2 UFC washouts who were never in title</p> <p>25 contention and it was amazingly boring. Scott Coker</p>

<p style="text-align: right;">202</p> <p>1 SILVA</p> <p>2 is amazing."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. So at this time, it was Coker who was</p> <p>6 running Bellator; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And do you recall the headlining event that</p> <p>9 you were talking about here?</p> <p>10 A. I don't.</p> <p>11 Q. Is it fair to say that, at least at this</p> <p>12 time, Bellator attempted to headline an event with</p> <p>13 two people who were cut from the UFC?</p> <p>14 A. Yes.</p> <p>15 Q. And that you found it boring; is that right?</p> <p>16 A. Yes. And they were just people who -- in my</p> <p>17 opinion, they had not -- it -- it's not like a Tito</p> <p>18 and Rampage situation where they're both former</p> <p>19 champions. These were guys who were not champions</p> <p>20 even in the UFC. And that they would choose to</p> <p>21 headline them was puzzling to me.</p> <p>22 Q. And when you said, "Scott Coker is amazing,"</p> <p>23 you were being sarcastic?</p> <p>24 A. I think he's an amazing guy. No, I just --</p> <p>25 I didn't understand -- I just -- when I would look at</p>	<p style="text-align: right;">204</p> <p>1 SILVA</p> <p>2 of them could have been local. You know, and not all</p> <p>3 shows are the same magnitude. We have shows of</p> <p>4 varying magnitude of, this is a Pay-Per-View show,</p> <p>5 this is a big Fox show, this is an FS1 show. So</p> <p>6 maybe they did not see it as one of their priority</p> <p>7 events.</p> <p>8 But, yeah, I just did not like the -- the</p> <p>9 match-up. And it -- sometimes you have a fight even</p> <p>10 if they're not high-ranked guys, you just think like</p> <p>11 this should be dynamite. Just stylistically, I</p> <p>12 think -- and you could be wrong, we've many times</p> <p>13 been wrong, but you at least have that anticipation.</p> <p>14 This was one -- especially if it was the two</p> <p>15 that you said, then on paper, like, that -- I would</p> <p>16 not expect that to be a very entertaining fight. So</p> <p>17 I was just super -- it was one that I was just super</p> <p>18 puzzled with.</p> <p>19 Q. And I believe this text was sent to Dana</p> <p>20 White and Lorenzo Fertitta. Does that refresh your</p> <p>21 recollection?</p> <p>22 A. I really don't know. I'm -- I'm pretty sure</p> <p>23 the [REDACTED] is Dana. I'm not sure what Lorenzo's number</p> <p>24 is.</p> <p>25 Q. And you were -- you were -- the main</p>
<p style="text-align: right;">203</p> <p>1 SILVA</p> <p>2 what other people do, I honestly try to figure it</p> <p>3 out. It's like, all right, here's why they would do</p> <p>4 that. And I was just genuinely puzzled.</p> <p>5 To be fair to him, most likely it's a</p> <p>6 situation we get into sometimes too, you have an</p> <p>7 event, an event scheduled, and maybe you had better</p> <p>8 ideas, and those better ideas didn't work out. But</p> <p>9 it was just -- it was -- I was very surprised that</p> <p>10 whatever that match-up was, they ended up making it</p> <p>11 the main event.</p> <p>12 Q. Let me just ask that again, though. When</p> <p>13 you said, "Scott Coker is amazing" --</p> <p>14 A. Yes, I was being sarcastic.</p> <p>15 Q. Okay. Okay. And this -- does it refresh</p> <p>16 your recollection that this fight was Bradley versus</p> <p>17 Neer?</p> <p>18 A. That's possible.</p> <p>19 Q. Okay.</p> <p>20 A. That would be a very unimpressive main</p> <p>21 event.</p> <p>22 Q. Okay. Do you know why the -- Bellator put</p> <p>23 on a main event with unimpressive fighters at that</p> <p>24 time?</p> <p>25 A. I don't -- do not know. It's possible one</p>	<p style="text-align: right;">205</p> <p>1 SILVA</p> <p>2 point -- one of the points of the text was to tell</p> <p>3 White and potentially Fertitta that Bellator was</p> <p>4 pathetic because it couldn't put on a competent</p> <p>5 top-level fight to headline its event?</p> <p>6 MR. ISAACSON: Objection to form.</p> <p>7 A. Yeah, I actually would say no. Most likely</p> <p>8 it's more of me going, look how awesome I am.</p> <p>9 Q. Right. And one way you're attempting to</p> <p>10 show how awesome you are is to show that you were</p> <p>11 putting on much better events and headlining events</p> <p>12 than you would -- than -- than Bellator was capable</p> <p>13 of doing; is that right?</p> <p>14 A. Yes. I felt I was better at doing it, yes.</p> <p>15 Q. And you were better at recruiting top talent</p> <p>16 than Scott Coker was at that time; correct?</p> <p>17 A. I wouldn't say at creating top talent.</p> <p>18 Scott had very good talent come up under his -- his</p> <p>19 watch. You know, that's -- that's the hard thing</p> <p>20 people don't understand. I've always said it, the</p> <p>21 UFC does not have all the best fighters. If you look</p> <p>22 at people in the UFC, they all came from somewhere.</p> <p>23 And Scott had, like -- where he had Kimbo at one time</p> <p>24 and it drew tremendous ratings on network TV. He had</p> <p>25 Gina Carano at her peak. He had some. It's, did I</p>

<p style="text-align: right;">206</p> <p>1 SILVA</p> <p>2 always think that he made the choices that made the</p> <p>3 best use of his talent? No. But he certainly found</p> <p>4 some very good talent.</p> <p>5 Q. Kimbo Slice?</p> <p>6 A. It was -- Kimbo was a guy -- it -- it's hard</p> <p>7 for me because I'm a purist.</p> <p>8 Did I ever think Kimbo was going to be world</p> <p>9 champion? Absolutely not.</p> <p>10 Did people connect with Kimbo and want to</p> <p>11 see him? Absolutely.</p> <p>12 Q. Okay. He died recently?</p> <p>13 A. He did.</p> <p>14 Q. Exhibit 4, it's another one of these text</p> <p>15 compilations.</p> <p>16 MR. ISAACSON: That's the lunch coming.</p> <p>17 MR. CRAMER: Off the record.</p> <p>18 THE VIDEOGRAPHER: Off the record at</p> <p>19 12:09 p m.</p> <p>20 (Luncheon recess taken at 12:09 p.m.,</p> <p>21 proceedings resumed at 12:44 p.m.)</p> <p>22 THE VIDEOGRAPHER: We're back on the</p> <p>23 record at 12:44 p m.</p> <p>24 BY MR. CRAMER:</p> <p>25 Q. Good afternoon, Mr. Silva.</p>	<p style="text-align: right;">208</p> <p>1 SILVA</p> <p>2 A. It's that Joe Schilling, who had a losing</p> <p>3 MMA record, they put in with Melvin Manhoef, who --</p> <p>4 who had a good MMA record and seemed to be somebody</p> <p>5 they were trying to push. So you know it's a threat.</p> <p>6 Both guys like to strike, and Joe Schilling's a very</p> <p>7 good striker, but what does he have to gain if he</p> <p>8 beat a pure striker in MMA, that would be just</p> <p>9 assumed. So it seemed like a lot of risk without</p> <p>10 much gain, and it did not go, I think, the way they</p> <p>11 thought it would.</p> <p>12 Q. And you're referring to Bellator?</p> <p>13 A. Yes.</p> <p>14 Q. So Bellator matched Schilling versus</p> <p>15 Manhoef, and in your view that was a stupid match-up?</p> <p>16 A. Yes. I don't like -- I try to make matches</p> <p>17 where both guys -- you -- you don't really know who's</p> <p>18 going to win or lose, but you like to be, it's good</p> <p>19 for this guy if he wins, makes sense, and it's good</p> <p>20 for the other guy if he wins and it makes sense.</p> <p>21 It was particularly hurtful, I think, for</p> <p>22 Manhoef's MMA record to lose to somebody who'd only</p> <p>23 ever had one win and three losses in MMA who's a very</p> <p>24 good kickboxer. It's different sport.</p> <p>25 Q. And when you say, "they make the stupidest</p>
<p style="text-align: right;">207</p> <p>1 SILVA</p> <p>2 Please turn to Exhibit 4, which is the</p> <p>3 compilation of text messages from Mr. White's phone</p> <p>4 that Zuffa produced to us, and turn to page 41 of 146</p> <p>5 in that compilation. And I'd like to draw your</p> <p>6 attention to the e-mail that -- or, I'm sorry, text</p> <p>7 message that Mr. White sent to Mr. Silva dated</p> <p>8 November 15, 2014, at 7:37 p.m., sort of in the</p> <p>9 middle of the page.</p> <p>10 Do you see that?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Okay. Mr. White says to Mr. Silva: "How</p> <p>13 has their show been?"</p> <p>14 And then Mr. Silva responds at 7:39 p.m.:</p> <p>15 "Just been watching UFC. Have Bellator and World</p> <p>16 Series on DVR."</p> <p>17 Then Silva says again to White: "1 and 3,</p> <p>18 Joe Schilling KOed Melvin Manhoef in round 2."</p> <p>19 And White says: "Ouch."</p> <p>20 And Silva says to White: "They make the</p> <p>21 stupidest matches."</p> <p>22 White says: "That is fucking stupid."</p> <p>23 And I'll stop there for the moment.</p> <p>24 So do you recall what this interchange is</p> <p>25 referring to?</p>	<p style="text-align: right;">209</p> <p>1 SILVA</p> <p>2 matches," you're referring to Bellator?</p> <p>3 A. Yes.</p> <p>4 Q. And that seemed to be a more general</p> <p>5 statement about Bellator's matchmaking. Is that</p> <p>6 your -- was that your opinion at the time, that they</p> <p>7 tend to make stupid matches?</p> <p>8 A. Yes, their matchmaking style was not my</p> <p>9 style.</p> <p>10 Q. And you thought it was not a very effective</p> <p>11 style, in your view?</p> <p>12 A. So there -- there's many different types of</p> <p>13 matchmaking. You have fans of each. So there's</p> <p>14 people who enjoy watching squash matches. That's not</p> <p>15 what I enjoy. It's not what I would think is good.</p> <p>16 But there's a market for it.</p> <p>17 That's like -- as I said before, the King of</p> <p>18 the Cage kind of styles. Like, you're going to see a</p> <p>19 bunch of knockouts. It's like, I'm not -- it's cool</p> <p>20 when you get knockouts, but I'm more interested in</p> <p>21 are they evenly matched fights.</p> <p>22 Q. So you can create mismatches that will give</p> <p>23 you knockouts, but that's not an evenly matched</p> <p>24 fight?</p> <p>25 A. Yeah, not in my opinion.</p>

<p style="text-align: right;">210</p> <p>1 SILVA</p> <p>2 Q. Is one reason that Bellator, in your</p> <p>3 opinion, was reduced to making stupid matches was</p> <p>4 because they didn't have enough top talent to put</p> <p>5 again -- to put together a -- a competent event?</p> <p>6 A. No. As I stated earlier with Pride, had</p> <p>7 tons of great talent and still made what I thought</p> <p>8 were dumb match-ups.</p> <p>9 Q. All right. Put that aside.</p> <p>10 I'd like you to turn back to Exhibit 6,</p> <p>11 which is the Silva text compilation that was produced</p> <p>12 to us. And turn your attention in particular to page</p> <p>13 149 of that compilation. And I'd like to draw your</p> <p>14 attention to a text that you sent on June 20th, 2015,</p> <p>15 at 3:06. And I believe you sent it to Dana White,</p> <p>16 among others; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And you say: "Pit bull is decent but</p> <p>19 it's in the Bellator pool. He lost decisions to both</p> <p>20 Joe Warren and Pat Curran who are ok but not great.</p> <p>21 On a 7 fight win streak though. Was getting beat up</p> <p>22 badly but pulled it off."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And what were you trying to convey in this</p>	<p style="text-align: right;">212</p> <p>1 SILVA</p> <p>2 fighters in there and he had wrecked them, I'd go,</p> <p>3 oh, that's a measuring stick that I could use. But</p> <p>4 other people on their own still go, no, I just</p> <p>5 think -- I think their pool is as good if not better</p> <p>6 than yours. It -- it's your opinion. But certainly</p> <p>7 the one -- the pool that I'm most familiar with is my</p> <p>8 pool, and it becomes an easier measuring stick.</p> <p>9 Q. So in your opinion, you weren't willing to</p> <p>10 use the Bellator pool of fighters as a matching -- as</p> <p>11 a -- as a measuring stick because you just weren't as</p> <p>12 familiar with those fighters?</p> <p>13 A. Right. But I still pointed out he's on a</p> <p>14 7-fight win streak, though, knowing in that weight</p> <p>15 class that is so full of talent, that's -- that's</p> <p>16 still kind of impressive. It would be more</p> <p>17 impressive if I knew more of the guys that he fought.</p> <p>18 But still pretty impressive.</p> <p>19 Q. And you say he -- he lost to Joe Warren and</p> <p>20 Pat Curran. That was in Bellator?</p> <p>21 A. Yes.</p> <p>22 Q. And, "They're okay but not great"?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And then he went on a 7-fight</p> <p>25 win streak, but then you said he was getting beat up</p>
<p style="text-align: right;">211</p> <p>1 SILVA</p> <p>2 text to Dana White and others?</p> <p>3 A. I believe that Pitbull had been -- he had</p> <p>4 training partners who would, like, pull Dana aside,</p> <p>5 like, oh, this kid, he's the best, you've got to sign</p> <p>6 him, you know, when his deal is up. So he would</p> <p>7 inquire about him, so I'm just giving him my scouting</p> <p>8 report. It's like, oh, I mean, he's doing decently,</p> <p>9 but he's also struggled with some guys that -- that I</p> <p>10 don't necessarily -- I didn't think that the hype</p> <p>11 matched up to the results I had seen.</p> <p>12 Q. And -- and you say: "Pit bull is decent but</p> <p>13 it's in the Bellator pool."</p> <p>14 Was that contrast between him being decent</p> <p>15 but his record is reflecting his fights in the</p> <p>16 Bellator pool, meant to refer to the fact that</p> <p>17 Bellator's pool is -- of fighters isn't as deep as,</p> <p>18 say, the UFC's pool?</p> <p>19 A. It's not that the pool isn't as deep, but</p> <p>20 because they had such a different lightweight</p> <p>21 division, it gets harder to tell. You have guys that</p> <p>22 could be good, but if they haven't -- if they're not</p> <p>23 facing the same guys that you're familiar with, it --</p> <p>24 it's harder to know.</p> <p>25 I say, if there had been more former UFC</p>	<p style="text-align: right;">213</p> <p>1 SILVA</p> <p>2 badly but pulled it off in his last fight?</p> <p>3 A. Yes.</p> <p>4 Q. Would you agree with me you can't just pick</p> <p>5 up guys off the street and have them compete at the</p> <p>6 UFC level; is that fair?</p> <p>7 A. I would agree that you should not do that.</p> <p>8 Q. Okay. And that it's unlikely that if you</p> <p>9 just find a bunch of buys in regional gyms and say,</p> <p>10 I'll sign you to a UFC contract, that those guys are</p> <p>11 likely to be UFC-level MMA fighters; is that fair?</p> <p>12 MR. ISAACSON: Objection to form.</p> <p>13 A. Yeah, you -- it was my opinion -- I wanted</p> <p>14 guys who had the competition experience to let me</p> <p>15 know that they at least had a chance to compete at</p> <p>16 that level. Some didn't work out. There's guys that</p> <p>17 I brought in who never ended up winning a fight, but</p> <p>18 I felt that their record showed they at least</p> <p>19 deserved the shot to prove that.</p> <p>20 MR. CRAMER: I'd like to mark the next</p> <p>21 document as Silva Exhibit 16.</p> <p>22 (Silva Deposition Exhibit 16 marked for</p> <p>23 identification.)</p> <p>24 Q. Silva Exhibit 16 is a one-page e-mail from</p> <p>25 Mr. Fertitta to you, dated December 26, 2012. The</p>

<p style="text-align: right;">214</p> <p>1 SILVA</p> <p>2 subject is Gilbert -- I'm sorry, it's from Silva to</p> <p>3 Fertitta, dated December 26, 2012, the subject is</p> <p>4 Gilbert Melendez. And it bears the Bates number</p> <p>5 ZFL-1012702.</p> <p>6 Melendez was the former Strikeforce</p> <p>7 lightweight champion at the time; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And by December 2012, the UFC had brought</p> <p>10 him over to the UFC; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. The -- the Strikeforce acquisition was in or</p> <p>13 about March 2011. Does that sound about right?</p> <p>14 A. I believe that's correct.</p> <p>15 Q. Okay. And you write at the top to</p> <p>16 Mr. Fertitta that he received his medical clearance</p> <p>17 on Monday clearing the way for a unification match</p> <p>18 against Benson Henderson April 20 on Fox in San Jose.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. What did you mean by a unification match?</p> <p>22 A. That since he was the -- he had never lost</p> <p>23 the title from Strikeforce, and that Benson was the</p> <p>24 current UFC champion, that you could do a Strikeforce</p> <p>25 versus UFC champion fight.</p>	<p style="text-align: right;">216</p> <p>1 SILVA</p> <p>2 A. For the same reason why Bellator wouldn't</p> <p>3 want to do it. Why would -- did McDonald's not agree</p> <p>4 to do the co-promotion with the Whopper to have the</p> <p>5 combination burger? They figured, we feel that we</p> <p>6 have this stature, and while Burger King is certainly</p> <p>7 a serious competitor, we don't want to help promote</p> <p>8 them in our promotion.</p> <p>9 Q. So if -- if the UFC were to hold a</p> <p>10 unification match with Bellator, that would help</p> <p>11 promote Bellator? Is that your understanding?</p> <p>12 A. I don't think Bellator would see that even</p> <p>13 that way, though. Right now, without having that</p> <p>14 fight, people could just assume, who are Bellator</p> <p>15 fans, that the Bellator champion is superior. Where,</p> <p>16 if he went and he lost, then it could change their</p> <p>17 minds and make them think it is now inferior. It --</p> <p>18 it's a risk for both sides.</p> <p>19 Q. All right. You start writing in the third</p> <p>20 paragraph here about Eddie Alvarez, in the fourth</p> <p>21 paragraph. You say, "if you gave Alvarez the shot</p> <p>22 and Henderson slipped on a banana peel and lost you</p> <p>23 will have given Bellator the greatest Christmas</p> <p>24 present of all: Bellator's champ would jump from</p> <p>25 number ten to number one. Even just giving their</p>
<p style="text-align: right;">215</p> <p>1 SILVA</p> <p>2 Q. And that unifies -- sort of like in boxing,</p> <p>3 that unifies the title under one promotion?</p> <p>4 A. Yes, it's kind of a continuation for the</p> <p>5 fans of going, but he didn't lose his belt, why is he</p> <p>6 now just not anything.</p> <p>7 Q. So he was a champion in Strikeforce and he's</p> <p>8 fighting a champion at the UFC, and this would unify</p> <p>9 the belts; is that --</p> <p>10 A. Yes.</p> <p>11 Q. Okay. In general, the UFC -- other than in</p> <p>12 situations where the UFC bought the other promotion,</p> <p>13 in general, the UFC does not hold unification matches</p> <p>14 between champions of different promotions; right?</p> <p>15 A. No.</p> <p>16 Q. Meaning, yeah, they do not do that; correct?</p> <p>17 A. We do not do that.</p> <p>18 Q. Why not?</p> <p>19 A. What would be the benefit of that?</p> <p>20 Q. Well, wouldn't the fans want to see the --</p> <p>21 the Bellator champion fight the UFC champion?</p> <p>22 Wouldn't that be interesting to fans?</p> <p>23 A. I don't know that it would be interesting to</p> <p>24 Bellator.</p> <p>25 Q. Why wouldn't UFC want to do it?</p>	<p style="text-align: right;">217</p> <p>1 SILVA</p> <p>2 former champion an immediate title shot puts Bellator</p> <p>3 on a level they don't deserve."</p> <p>4 Did you write that?</p> <p>5 A. Yes.</p> <p>6 Q. And Alvarez was -- he was fighting with</p> <p>7 Bellator at the time?</p> <p>8 A. If I'm talking about him doing it, I don't</p> <p>9 know if we had acquired him. I don't know the time</p> <p>10 frame. I don't know -- I couldn't give him a title</p> <p>11 shot if he was not --</p> <p>12 Q. Okay.</p> <p>13 A. -- available to us.</p> <p>14 Q. So potentially you had acquired Alvarez at</p> <p>15 this time?</p> <p>16 A. I'm guessing that --</p> <p>17 Q. From Bellator. He was previously the</p> <p>18 Bellator lightweight champion?</p> <p>19 A. Yes. But I -- I don't believe he left as a</p> <p>20 champion.</p> <p>21 Q. Okay. So he may have -- he was at one time</p> <p>22 a Bellator lightweight champ?</p> <p>23 A. Yes. Correct.</p> <p>24 Q. He may have lost, then you signed him?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">218</p> <p>1 SILVA</p> <p>2 Q. Okay. Do you recall whether Zuffa was</p> <p>3 negotiating with Eddie Alvarez at the time you wrote</p> <p>4 this?</p> <p>5 A. I don't recall just looking from context if</p> <p>6 that's being brought up as a possibility. I would</p> <p>7 guess that he was available.</p> <p>8 Q. Okay.</p> <p>9 A. Because there would be no point in bringing</p> <p>10 it up if he's not available.</p> <p>11 Q. Henderson, at the time, was the UFC's</p> <p>12 champion; correct?</p> <p>13 A. Correct.</p> <p>14 Q. And what you're conveying here with the</p> <p>15 "slipped on a banana peel," is that you expected</p> <p>16 Henderson to be able to beat Alvarez if you had</p> <p>17 matched them up, but worried that there was some</p> <p>18 chance that Alvarez could slip up -- that Henderson</p> <p>19 could slip up and Alvarez wins and it would make it</p> <p>20 seem like a former Bellator guy was at the UFC level,</p> <p>21 is that what you're trying to say?</p> <p>22 A. No, because you could also say that with</p> <p>23 Strikeforce where we're talking about it instead</p> <p>24 being Gilbert Melendez. The thing was that he was,</p> <p>25 at that point, so low in the rankings. It's like,</p>	<p style="text-align: right;">220</p> <p>1 SILVA</p> <p>2 at your champion, that -- and -- and -- and Alvarez</p> <p>3 wins, why would that be the greatest Christmas</p> <p>4 present that Bellator could get?</p> <p>5 A. Because Bellator could say that guy's not</p> <p>6 even our champion. We have a guy who beat him and he</p> <p>7 beat the UFC. See, our guys are better.</p> <p>8 Q. Why would that benefit Bellator?</p> <p>9 A. Because that's -- as a competitor, that's --</p> <p>10 every promotion wants to be able to claim to be</p> <p>11 number one, to claim that you have the best fighters.</p> <p>12 That gives some teeth to that claim.</p> <p>13 Q. And you wanted to avoid the possibility of</p> <p>14 giving Bellator a Christmas present by allowing one</p> <p>15 of their former champions the opportunity to beat one</p> <p>16 of your champions?</p> <p>17 A. Not even to beat him; that, why would he</p> <p>18 fight him when he's ranked that low. There,</p> <p>19 you're -- you would basically be saying the only</p> <p>20 reason this guy is getting a title shot is because he</p> <p>21 used to be a champion in another organization. It's</p> <p>22 like, how do you justify that over all these -- like</p> <p>23 a Gilbert Melendez, who is ranked higher than him and</p> <p>24 is a former champion, and currently, had not lost the</p> <p>25 championship. That's credible.</p>
<p style="text-align: right;">219</p> <p>1 SILVA</p> <p>2 wait, so you're taking a lower-rated Bellator guy and</p> <p>3 saying being a low-rated Bellator guy makes you</p> <p>4 worthy of fighting the best guy in the UFC, that</p> <p>5 doesn't make sense. That hurts us.</p> <p>6 Q. How does it hurt you?</p> <p>7 A. Because he's a lower-level guy. By the</p> <p>8 rankings, not because he's in Bellator. If you</p> <p>9 looked at -- at where he was in -- in the overall</p> <p>10 rankings, he was not as high up as a Gilbert</p> <p>11 Melendez. Even though Gilbert Melendez winning, you</p> <p>12 can go, oh, see, we knew Strikeforce had the better</p> <p>13 fighters all along.</p> <p>14 Q. Right.</p> <p>15 A. And that some people could say that, but</p> <p>16 he's ranked number 3, it's still you'll -- that's</p> <p>17 legitimate.</p> <p>18 If Eddie had been ranked number 3 and we</p> <p>19 needed a title defense for that, it's like okay,</p> <p>20 that's defensible.</p> <p>21 Being ranked lower than that? It's like,</p> <p>22 this -- how -- how is this good.</p> <p>23 Q. So why would it be that if you give this</p> <p>24 Alvarez, a former Bellator champion, who was at that</p> <p>25 time a little bit lower in the rankings, a -- a shot</p>	<p style="text-align: right;">221</p> <p>1 SILVA</p> <p>2 You could still say, oh, well, that -- could</p> <p>3 help people who were Strikeforce fans all along and</p> <p>4 tried to say that they thought they had a better</p> <p>5 lightweight division, that could help; but, yeah, it</p> <p>6 could, but it's defensible, there's a reason why you</p> <p>7 would do it. I did not see why, at that point, you</p> <p>8 would do that with Eddie Alvarez. It was all benefit</p> <p>9 to Bellator. If he lost, Bellator would just go, he</p> <p>10 lost in our show too. We don't care. So there was</p> <p>11 nothing for them to lose and only to gain.</p> <p>12 Q. Well, Alvarez if he fought Henderson, would</p> <p>13 be fighting for the UFC, right, not Bellator; right?</p> <p>14 A. But Bellator would still use that former</p> <p>15 fighter and that -- use specifically that he was not</p> <p>16 their champion, that he had lost to their current</p> <p>17 champion.</p> <p>18 Q. And you say, "Bellator's champ would jump</p> <p>19 from number ten to number one." You mean if --</p> <p>20 A. Well, because he'd be the champion.</p> <p>21 Champion's number 1. Which, there's different ways</p> <p>22 of doing the rankings. Like, if you'll notice</p> <p>23 disparity in, like, the official rankings, the</p> <p>24 champion is not ranked number 1.</p> <p>25 Basically you have the champion and then you</p>

<p style="text-align: right;">222</p> <p>1 SILVA</p> <p>2 have top-ranked contenders. So this is number 1</p> <p>3 contender.</p> <p>4 This particular listing, though, is just</p> <p>5 taking it -- if you're going of all divisions in the</p> <p>6 world, here's who we think is the best, because</p> <p>7 somebody under this time could go, you may be the UFC</p> <p>8 champion but we don't think you're the best. We have</p> <p>9 the UFC champion at 2 and the Strikeforce champion at</p> <p>10 number 1.</p> <p>11 Q. At this time, at least from the context</p> <p>12 here, it makes it seem like Bellator's champ,</p> <p>13 Alvarez, at that time, was number 10.</p> <p>14 A. He was not the champion.</p> <p>15 Q. He was not the champion.</p> <p>16 A. Michael Chandler, I believe, was.</p> <p>17 Q. Was. Okay.</p> <p>18 And then you say: "Even just giving</p> <p>19 their" --</p> <p>20 A. Right. Who was ranked higher. He's --</p> <p>21 Michael Chandler's on these rankings. He's from</p> <p>22 Bellator.</p> <p>23 Q. Right. You have the rankings listed here.</p> <p>24 Number 10 is Michael Chandler?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">224</p> <p>1 SILVA</p> <p>2 responsibility for filling bout slots and creating</p> <p>3 cards, is that right, fight cards?</p> <p>4 A. Yes.</p> <p>5 Q. And for each UFC event, there's a certain</p> <p>6 number of bouts?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. How many bouts are there in a -- on a</p> <p>9 typical fight card?</p> <p>10 A. It fluctuated greatly through the years. It</p> <p>11 swelled in number due to creating more weight</p> <p>12 classes, two shows that we acquired, to things like</p> <p>13 The Ultimate Fighter, which created an influx of</p> <p>14 fighters where all of a sudden you needed more space.</p> <p>15 So early on, it was like 8 fights a show, then 9,</p> <p>16 then 10, then 11, but their maximum was 13 fights.</p> <p>17 Which there's -- there's very good things about it</p> <p>18 and then there was things that I didn't like as much</p> <p>19 about it. To me, it's just a long show.</p> <p>20 Q. Thirteen fights is a long show.</p> <p>21 A. In my opinion. But there are people who</p> <p>22 would be there from the very first fight and loving</p> <p>23 it, where they saw this is more bang for my buck.</p> <p>24 But, you know, maybe it was laziness on my part. I</p> <p>25 had to go to a lot of these shows, and it's like this</p>
<p style="text-align: right;">223</p> <p>1 SILVA</p> <p>2 Q. And then you say: "Even just giving their</p> <p>3 former champion an immediate title shot puts Bellator</p> <p>4 on a level they don't deserve."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Did you say that?</p> <p>8 A. I did.</p> <p>9 Q. So giving their former champion a immediate</p> <p>10 title shot puts Bellator on a level with UFC, and</p> <p>11 they don't deserve it, is that what you're saying?</p> <p>12 A. No. I'm saying that to have a guy who's not</p> <p>13 ranked in -- on these rankings in the top ten get a</p> <p>14 title shot puts -- it's like why would you do that.</p> <p>15 What are you -- are you saying there's something so</p> <p>16 special about Bellator, more special than Pride ever</p> <p>17 was and Strikeforce ever was, that anybody was, that</p> <p>18 the guy who lost their title gets a title fight?</p> <p>19 It's just nonsensical. But Bellator would try to</p> <p>20 spin that nonsense into going, look how great we are,</p> <p>21 they're giving a guy who lost to our guy their title</p> <p>22 fight.</p> <p>23 Q. All right. In addition to your</p> <p>24 responsibility of -- in pitting individual fighters</p> <p>25 against each other for bouts, you also had the</p>	<p style="text-align: right;">225</p> <p>1 SILVA</p> <p>2 is another really long show. And -- and I got to get</p> <p>3 on a plane and fly to another one in a couple of</p> <p>4 days.</p> <p>5 Q. Putting that aside, would you agree that</p> <p>6 since -- in or about 2007 or '08 the UFC increased</p> <p>7 the number of fighters it had under contract?</p> <p>8 A. Yes.</p> <p>9 Q. Would you agree that the number of fighters</p> <p>10 the UFC had under contract increased when the WEC</p> <p>11 merged with the UFC?</p> <p>12 A. Yes.</p> <p>13 Q. And that the number of fighters the UFC had</p> <p>14 under contract also increased when the UFC merged and</p> <p>15 took over Strikeforce?</p> <p>16 A. Yes.</p> <p>17 MR. CRAMER: Like to mark the next</p> <p>18 document as Silva Exhibit 17.</p> <p>19 (Silva Deposition Exhibit 17 marked for</p> <p>20 identification.)</p> <p>21 Q. This is a December 2010 e-mail, it bears the</p> <p>22 Bates range ZFL-2206527 through 529. And it's</p> <p>23 actually two e-mails. It's one at the bottom from</p> <p>24 Mr. Ismael to you, and then one at the top from you</p> <p>25 to Mr. Ismael.</p>

<p style="text-align: right;">226</p> <p>1 SILVA</p> <p>2 You write at the top -- is this your e-mail,</p> <p>3 by the way?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. You write at the top: "I am sorry</p> <p>6 but I just do not have a spot right now. I really</p> <p>7 tried a place for him but with the WEC merger I have</p> <p>8 70 fighters too many under contract."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So at this time, in December of 2010, you</p> <p>12 had 70 fighters too many under contract?</p> <p>13 A. Yes. That was my opinion.</p> <p>14 Q. What did that mean?</p> <p>15 A. Well, when we had the acquisition, you now</p> <p>16 have to fit those people into the shows, and you only</p> <p>17 have but so many spots. Unless you increase the</p> <p>18 number of shows you do or increase the spots that you</p> <p>19 have in the show, it -- sometimes it can be</p> <p>20 challenging to work those extra fighters in, because</p> <p>21 it's not a slow, you know, acquisition, it's all at</p> <p>22 once.</p> <p>23 Q. And that was difficult to combine and</p> <p>24 take -- and -- and -- strike that.</p> <p>25 You say: "I have some guys who are going to</p>	<p style="text-align: right;">228</p> <p>1 SILVA</p> <p>2 manage -- the roster to a more manageable level.</p> <p>3 Q. You say: "I have some guys who are going to</p> <p>4 be waiting 6 months for a fight."</p> <p>5 Is that a long time to wait, in your</p> <p>6 opinion?</p> <p>7 A. It's longer than I would like somebody to</p> <p>8 wait. I want to have guys fighting as often as they</p> <p>9 would like to. Some guys don't like to fight that</p> <p>10 often. Some guys are Cowboy Cerrone, you want to</p> <p>11 fight every two weeks. So you -- you're trying to</p> <p>12 take their wants and needs into consideration.</p> <p>13 Q. But you don't generally want to have</p> <p>14 fighters wait 6 months for a fight?</p> <p>15 A. Yeah, I'd prefer not to.</p> <p>16 Q. And Zuffa didn't typically aim for fighters</p> <p>17 to fight only twice a year?</p> <p>18 A. No, that was not our aim.</p> <p>19 Q. Right. And fighters only get paid by Zuffa,</p> <p>20 in general, when they fight?</p> <p>21 A. Yes.</p> <p>22 Q. And -- and UFC's contracts prevent them from</p> <p>23 fighting for other MMA promotions while they're under</p> <p>24 contract with Zuffa; correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">227</p> <p>1 SILVA</p> <p>2 be waiting 6 months for a fight."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. What did that mean?</p> <p>6 A. That meant, just looking at it</p> <p>7 mathematically, should everybody stay healthy and I'm</p> <p>8 just mapping out fights, there's going to be fighters</p> <p>9 left over who did not have a fight, because you only</p> <p>10 have but so many spots. And there would be times</p> <p>11 when I would request either additional spots or</p> <p>12 additional shows to take care of those fighters.</p> <p>13 Q. When you say that you had too many under</p> <p>14 contract, you mean more fighters than you had</p> <p>15 available bouts to slot them in; is that right?</p> <p>16 A. Yes, at the moment.</p> <p>17 Q. And you say: "It is going to take me until</p> <p>18 the middle of next year to get this to a manageable</p> <p>19 level."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. What did you mean by that?</p> <p>23 A. Exactly what it said, that it would take</p> <p>24 time to get everybody settled in and back through,</p> <p>25 and you would have to work out through -- get the</p>	<p style="text-align: right;">229</p> <p>1 SILVA</p> <p>2 Q. So if -- if UFC had too many fighters under</p> <p>3 contract during this period in 2010 for you to give</p> <p>4 them sufficient number of bouts, why didn't the UFC</p> <p>5 allow some of its fighters to fight for another</p> <p>6 promotion while the glut subsided?</p> <p>7 A. Actually, they did.</p> <p>8 Q. Another MMA promotion?</p> <p>9 A. Yes.</p> <p>10 Q. So who did?</p> <p>11 A. We've had -- there was a number of guys</p> <p>12 who -- we'd have to go get with Tracy Long and see</p> <p>13 who did. But there were fighters who fought in other</p> <p>14 shows, that were given a release to do so, to help</p> <p>15 in -- in situations like that. Just because the</p> <p>16 contract -- basically all you needed was permission</p> <p>17 to do it. Even back in the day, Chuck Liddell fought</p> <p>18 in Pride when he was under contract to us. It didn't</p> <p>19 happen a lot, but it did happen, that UFC fighters</p> <p>20 under exclusive contract fought in other shows.</p> <p>21 Q. How often did it happen? Was it a regular</p> <p>22 thing?</p> <p>23 A. I don't know. Maybe probably overall 20</p> <p>24 times.</p> <p>25 Q. Twenty times in the --</p>

<p style="text-align: right;">230</p> <p>1 SILVA</p> <p>2 A. But in key times, key periods, if I have two</p> <p>3 guys who are bugging me for a fight that I have no</p> <p>4 spot for, that takes a lot of pressure off. It's</p> <p>5 like, hey, you can fight in this other show if you</p> <p>6 want to. That is very valuable to that fighter.</p> <p>7 It -- it didn't matter if it was one, it's me and I</p> <p>8 need to fight, as you said you need to get paid, so</p> <p>9 we gave them the opportunity to do that.</p> <p>10 Q. So you were at Zuffa -- at the UFC from 1994</p> <p>11 to 2016; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. That's 22 years?</p> <p>14 A. Yes.</p> <p>15 Q. And in 22 years, you say there were about 20</p> <p>16 times where you're aware that Zuffa allowed a -- one</p> <p>17 of its fighters under exclusive contract with Zuffa</p> <p>18 to fight for another mixed martial arts promotion?</p> <p>19 A. That's not correct, because Zuffa didn't own</p> <p>20 the UFC 22 years.</p> <p>21 Q. Okay. Where the UFC -- well, so is your 20</p> <p>22 times Zuffa --</p> <p>23 A. Because there are different contracts</p> <p>24 between -- I worked for the UFC for 22 years.</p> <p>25 Q. I see.</p>	<p style="text-align: right;">232</p> <p>1 SILVA</p> <p>2 A. I can also tell you that our contracts are</p> <p>3 different now than they were a year from now, but I</p> <p>4 couldn't tell you in what ways.</p> <p>5 Q. Okay. So let's -- let's take it from 2001</p> <p>6 to 2016. From 2001 to 2016 -- well, let me -- let me</p> <p>7 just ask it this way.</p> <p>8 The 20 times that you recall or say --</p> <p>9 approximate the 20 times where a UFC fighter fought</p> <p>10 for another MMA promotion, during what time period is</p> <p>11 that?</p> <p>12 A. I would say from modern Zuffa era, so maybe</p> <p>13 17 years.</p> <p>14 Q. Okay. So it's a little bit more than one a</p> <p>15 year?</p> <p>16 A. Yeah.</p> <p>17 Q. And how --</p> <p>18 A. But it also could be that it had no times in</p> <p>19 one year, happened twice --</p> <p>20 Q. Okay.</p> <p>21 A. -- in another year. It just depended on --</p> <p>22 it's something you would rather the fighter, you</p> <p>23 know, signed a UFC contract, he would like to fight</p> <p>24 in the UFC, but it's trying to work with the fighter</p> <p>25 and find a way to best rectify the situation.</p>
<p style="text-align: right;">231</p> <p>1 SILVA</p> <p>2 A. Zuffa hasn't owned it for 22. I worked for</p> <p>3 both companies.</p> <p>4 Q. I see.</p> <p>5 A. And they had different policies and</p> <p>6 different contracts.</p> <p>7 Q. What were the difference -- what were the</p> <p>8 differences between the policies and the contracts</p> <p>9 between the pre-Zuffa UFC and the post-Zuffa UFC?</p> <p>10 A. I'm not a lawyer.</p> <p>11 Q. Right.</p> <p>12 A. And I didn't deal much with contracts. And</p> <p>13 especially for the old UFC, I was not a matchmaker.</p> <p>14 I was a technical consultant. I would give my</p> <p>15 opinion on things, work on the rules, work on stuff</p> <p>16 for productions, I might give ideas on match-ups and</p> <p>17 stuff, but I was not handling fighter contracts or</p> <p>18 making the fights, so I can't speak on that.</p> <p>19 Q. Well, you just said that they had very</p> <p>20 different contracts. I'm just trying to figure</p> <p>21 out what --</p> <p>22 A. They did. I know, because it's different</p> <p>23 lawyers, different size. You could just tell from</p> <p>24 the size of them that they were different.</p> <p>25 Q. Other than the size of the contracts --</p>	<p style="text-align: right;">233</p> <p>1 SILVA</p> <p>2 Q. And once -- or about once and sometimes</p> <p>3 maybe twice, you allow -- you or the UFC allowed a</p> <p>4 fighter under exclusive contract with the UFC to</p> <p>5 fight in another MMA promotion?</p> <p>6 A. Yes.</p> <p>7 Q. And were those -- did it matter to you when</p> <p>8 you allowed this to happen that the fights were --</p> <p>9 were or were not televised?</p> <p>10 A. Yes.</p> <p>11 Q. All right. So in what way did it matter?</p> <p>12 A. It was one of the provisions, that it</p> <p>13 wouldn't be a televised fight.</p> <p>14 Q. Why did you stipulate that as part of your</p> <p>15 allowing a fighter to fight for another MMA</p> <p>16 promotion?</p> <p>17 A. You would have to ask the legal department.</p> <p>18 I was just told, if you want -- I was like, hey, can</p> <p>19 I have this guy fight? Yes, those are the</p> <p>20 provisions.</p> <p>21 Q. I see. So you would ask legal, this guy</p> <p>22 wants to fight, I have a glut of fighters, I'd like</p> <p>23 to allow him to fight; and they'd tell you these are</p> <p>24 the provisions that would apply?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">234</p> <p>1 SILVA</p> <p>2 Q. And one of those stipulations was that the</p> <p>3 fight could not be televised; is that right?</p> <p>4 A. I believe so.</p> <p>5 Q. Was another stipulation that the fight could</p> <p>6 not be in the United States?</p> <p>7 A. No.</p> <p>8 Q. What were some of the other stipulations</p> <p>9 that you can recall?</p> <p>10 A. That's the only one that I remember.</p> <p>11 MR. CRAMER: All right. I'd like to mark</p> <p>12 as the next document Silva 18.</p> <p>13 (Silva Deposition Exhibit 18 marked for</p> <p>14 identification.)</p> <p>15 Q. Silva 18 is a one-page document with two</p> <p>16 e-mails. It has the Bates range ZFL-2206472. So</p> <p>17 this is -- the bottom e-mail is from Mr. Tiago</p> <p>18 Okamura --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- sent Friday, October 29, 2010, to you.</p> <p>21 And the subject is Daniel Acacio --</p> <p>22 A. Yes.</p> <p>23 Q. -- and Erick Silva.</p> <p>24 Do you recall receiving this e-mail?</p> <p>25 A. I see that I received this e-mail.</p>	<p style="text-align: right;">236</p> <p>1 SILVA</p> <p>2 of the WEC merger, if you can recall?</p> <p>3 A. I think that -- I believe we only added the</p> <p>4 two below lightweight, and then expanded later.</p> <p>5 Q. Okay. And you respond to Mr. Okamura on</p> <p>6 November 3rd, 2010, you say: "With the WEC merger I</p> <p>7 have too many guys right now so openings are sparse.</p> <p>8 Keep your guys winning and maybe something will open</p> <p>9 up in the future."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. So what were you telling Mr. Okamura, that</p> <p>13 as a result of the merger you didn't have openings?</p> <p>14 A. Right. Where I might normally, now I was</p> <p>15 going to have to -- I had contractual obligations to</p> <p>16 all those WEC guys, so my priority was to get them</p> <p>17 fights rather than people who were not under contract</p> <p>18 to me.</p> <p>19 But we had dropouts happen constantly, and</p> <p>20 that's what I'd let people know. It's like, look, if</p> <p>21 your guy's in shape, that -- that could be his</p> <p>22 opportunity. If an opening comes up and somebody</p> <p>23 under contract does not want it, now I can -- now</p> <p>24 that gives me the opening to sign somebody who's not</p> <p>25 currently signed.</p>
<p style="text-align: right;">235</p> <p>1 SILVA</p> <p>2 Q. Yeah, you don't -- you don't deny --</p> <p>3 A. Yeah.</p> <p>4 Q. -- that you received this e-mail?</p> <p>5 A. No.</p> <p>6 Q. Okay. And this -- this -- and do you know</p> <p>7 who Mr. Okamura is?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Who is he?</p> <p>10 A. He's an MMA manager.</p> <p>11 Q. Okay. And he managed fighters including</p> <p>12 Acacio and Silva?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And he says: "Hi Joe, how are you</p> <p>15 doing mate? Things are going to be very interesting</p> <p>16 next year with all the divisions under the same</p> <p>17 banner."</p> <p>18 Do you know what he was referring to there?</p> <p>19 A. I'm sure it's the WEC merger.</p> <p>20 Q. So part of the WEC merger with the UFC was</p> <p>21 that there were -- there were divisions that the UFC</p> <p>22 did not have until the merger with the -- with WEC;</p> <p>23 is that right?</p> <p>24 A. Correct.</p> <p>25 Q. Which divisions did the UFC add as a result</p>	<p style="text-align: right;">237</p> <p>1 SILVA</p> <p>2 Q. But at least as of November 2010, as a</p> <p>3 result of the WEC merger, you had too many guys and</p> <p>4 openings were sparse; is that right?</p> <p>5 A. Correct.</p> <p>6 MR. CRAMER: All right. I'd like to have</p> <p>7 marked as the next exhibit Silva 19, the next</p> <p>8 document.</p> <p>9 (Deposition Exhibit 19 marked for</p> <p>10 identification.)</p> <p>11 Q. Silva 19 is a series of three e-mails on one</p> <p>12 page, bearing the Bates range ZFL-2444687. It's a</p> <p>13 July 2011 e-mail exchange between you and Dan</p> <p>14 Lambert. Who is Dan Lambert?</p> <p>15 A. He is the owner of American Top Team and an</p> <p>16 MMA manager.</p> <p>17 Q. What is American Top Team?</p> <p>18 A. It's one of the premier gyms in the world.</p> <p>19 Q. And a gym is where MMA fighters train?</p> <p>20 A. Yes.</p> <p>21 Q. And Mr. Lambert represents fighters, MMA</p> <p>22 fighters?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And in this e-mail, he was sending</p> <p>25 you two perspective fighters for an event in</p>

<p style="text-align: right;">238</p> <p>1 SILVA</p> <p>2 November of 2011?</p> <p>3 A. Yes.</p> <p>4 Q. And at the top of the page, this is July</p> <p>5 of 2011, you say: "I have too many guys. Look how</p> <p>6 long it's taking for me to get your other guys</p> <p>7 fighters."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. So in July of 2011, you still had too many</p> <p>11 guys; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And what did you mean when you said you had</p> <p>14 too many guys? Is that -- is that the point you were</p> <p>15 making before, that you didn't have enough --</p> <p>16 A. Yes.</p> <p>17 Q. -- room on your cards --</p> <p>18 A. Right, to get every --</p> <p>19 Q. -- for the guys --</p> <p>20 A. -- keep everybody fighting as much as they</p> <p>21 would like to fight. And the point that I made to</p> <p>22 him, which was always surprising to me, two -- four</p> <p>23 managers where they have fighters already under</p> <p>24 contract, and they're like, this guy wants to fight,</p> <p>25 this guy wants to fight, and I'm like, look, I'm</p>	<p style="text-align: right;">240</p> <p>1 SILVA</p> <p>2 or just natural -- there's a weird ebb and flow of</p> <p>3 sometimes you have a lot of people who just happen to</p> <p>4 be injured, and then you have a lot of people who all</p> <p>5 return at the same time.</p> <p>6 So last weekend I'm like, oh, we're good,</p> <p>7 and then all -- all of a sudden people are like, I --</p> <p>8 I'm healed now, I'm healthy, and I want to fight</p> <p>9 tomorrow. And we're like, oh, wait, I didn't know</p> <p>10 you were going to be back that quickly. Now you have</p> <p>11 to deal with that.</p> <p>12 MR. CRAMER: All right. I'd like to mark</p> <p>13 as the next document Silva Exhibit 20.</p> <p>14 (Silva Deposition Exhibit 20 marked for</p> <p>15 identification.)</p> <p>16 Q. Okay. This is a series of text messages</p> <p>17 that Zuffa produced to us on behalf of Lorenzo</p> <p>18 Fertitta, and it bears the Bates number ZFL-2699678,</p> <p>19 and it's a 178-page compilation document.</p> <p>20 And I'd like to -- you to turn your</p> <p>21 attention to page 79 of the compilation document of</p> <p>22 Silva 20. And so draw your attention to a text dated</p> <p>23 February 6, 2013, at 2:50 p m. It's towards the</p> <p>24 bottom of the page. And presumably it's from</p> <p>25 Fertitta to you, dated February 6, 2013, at</p>
<p style="text-align: right;">239</p> <p>1 SILVA</p> <p>2 looking for a spot for them, I'll get right back to</p> <p>3 you. They go, oh, by the way, here's more fighters.</p> <p>4 It's like, don't you want me to take care of your</p> <p>5 fighters that you already have a commitment to?</p> <p>6 So that's what I'm kind of trying to make</p> <p>7 clear to Dan. You want your currently signed</p> <p>8 fighters to fight more actively, how am I going to do</p> <p>9 that if I bring in even more fighters.</p> <p>10 Q. And at this time, you just -- you had too</p> <p>11 many and you couldn't bring on new ones?</p> <p>12 A. Right. But that could also change, as many</p> <p>13 of these did, in a day. Like, I have no room for</p> <p>14 your guy; oh, I had a dropout, nobody else would take</p> <p>15 it, and now I do.</p> <p>16 Q. And July of 2011 was just after the</p> <p>17 Strikeforce merger; is that right? I think that was</p> <p>18 in March 2011.</p> <p>19 A. Yeah, I'm not sure on the dates.</p> <p>20 Q. But it would make sense that your having too</p> <p>21 many guys in part resulted from the Strikeforce</p> <p>22 merger; correct?</p> <p>23 MR. ISAACSON: Objection to form.</p> <p>24 A. Yes. And that's not the only reason why.</p> <p>25 There was times where, from Ultimate Fighter series</p>	<p style="text-align: right;">241</p> <p>1 SILVA</p> <p>2 2:50 p m., and he says to you: "Who you got for</p> <p>3 Pyle. He wants to fight Maia."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Who is Pyle?</p> <p>7 A. Mike Pyle.</p> <p>8 Q. He was a UFC fighter?</p> <p>9 A. Yes.</p> <p>10 Q. And Maia is another UFC fighter?</p> <p>11 A. Yes.</p> <p>12 Q. And Pyle wanted, at this time, to fight</p> <p>13 Maia?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you respond to Mr. Fertitta:</p> <p>16 "I'm well aware. He and his manager are harassing</p> <p>17 me. I have hundreds of guys waiting on fights and</p> <p>18 Maia just fought."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And so what were you telling Mr. Fertitta</p> <p>22 here?</p> <p>23 A. I was just -- sometimes fighters will --</p> <p>24 if -- I always do my best to be very communicative</p> <p>25 and let them know that they feel -- if they go</p>

<p style="text-align: right;">242</p> <p>1 SILVA</p> <p>2 around, I'll go to Dana, I'll go to Lorenzo, and</p> <p>3 they'll get a fight faster. And you see they will</p> <p>4 contact me, going, hey, Mike Pyle wants to fight.</p> <p>5 I'm just letting you know I'm well aware of that.</p> <p>6 It's not like I -- I don't know. I've communicated</p> <p>7 with them and let them know.</p> <p>8 But especially it would make more sense and</p> <p>9 be more fair to the roster for Mike Pyle to fight</p> <p>10 somebody who also has not just fought. I need to get</p> <p>11 a fight for somebody who also has not fought super</p> <p>12 recently.</p> <p>13 Q. And at that time you had hundreds of guys</p> <p>14 waiting on fights?</p> <p>15 A. Which I think is my exaggerating. Obviously</p> <p>16 you only have but so many hundreds under contract,</p> <p>17 and we're putting on lots of shows. But it's just</p> <p>18 more me expressing to him, I've got lots of guys.</p> <p>19 Q. There -- and lots of guys waiting on fights.</p> <p>20 And -- and am I right that this is after</p> <p>21 Strikeforce's last event as a standalone entity?</p> <p>22 A. I don't know the dates on that.</p> <p>23 Q. But it's fair to say that after the</p> <p>24 Strikeforce purchase, and then at some point the UFC</p> <p>25 shut Strikeforce down?</p>	<p style="text-align: right;">244</p> <p>1 SILVA</p> <p>2 fight a fight at -- at intervals that you would have</p> <p>3 wanted to have; is that right?</p> <p>4 A. Well, it's not just that. It's, the issue</p> <p>5 as I was explaining to him, I was going to get Mike</p> <p>6 Pyle a fight, that was not an issue; the issue was he</p> <p>7 was asking to fight somebody who had just fought,</p> <p>8 which would then prevent me -- would make it</p> <p>9 impossible for me to get a fight for another fighter</p> <p>10 in a timely manner. So that's what we were</p> <p>11 constantly juggling.</p> <p>12 Q. Would you agree with me that if</p> <p>13 Strikeforce -- if -- if Zuffa hadn't purchased</p> <p>14 Strikeforce, and Strikeforce still existed as a</p> <p>15 standalone entity, that fighters who were added to</p> <p>16 your stable of fighters would be at Strikeforce and</p> <p>17 being able to fight more regularly?</p> <p>18 A. No, not necessarily, because Strikeforce did</p> <p>19 not utilize their roster on their entire cards.</p> <p>20 Quite often as a cost-cutting measure, they would</p> <p>21 farm out their undercards to just different local</p> <p>22 promoters and use fighters who were not under</p> <p>23 Strikeforce contract. So they still had a limited</p> <p>24 amount of spots on each show that they did.</p> <p>25 Q. Right. But those fighters were fighting,</p>
<p style="text-align: right;">243</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. And merged the contracts that were under the</p> <p>4 Strikeforce banner into the UFC banner?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And at that time, the -- you then had</p> <p>7 many more fighters?</p> <p>8 A. Correct.</p> <p>9 Q. And assuming that this was in or around the</p> <p>10 time that Strikeforce was shut down and the -- the</p> <p>11 Strikeforce fighters were now under the UFC, that</p> <p>12 could have been one of the reasons why you have all</p> <p>13 these guys waiting on fights; is that right?</p> <p>14 MR. ISAACSON: Objection. Foundation.</p> <p>15 Form.</p> <p>16 A. Yes, that's possible.</p> <p>17 Q. Okay. And when you say "waiting on fights,"</p> <p>18 do you mean -- did you mean to convey that these were</p> <p>19 fighters who were otherwise ready and willing to</p> <p>20 fight and compete, but did not yet have their next</p> <p>21 fight scheduled?</p> <p>22 A. Yes.</p> <p>23 Q. And many of these fighters -- and at this</p> <p>24 time, at least, you didn't have enough room for -- to</p> <p>25 schedule enough fights to give everyone who wanted to</p>	<p style="text-align: right;">245</p> <p>1 SILVA</p> <p>2 they might not have been fighting for Strikeforce,</p> <p>3 they were fighting --</p> <p>4 A. But if you don't have that many shows and</p> <p>5 you have even less spots, doesn't necessarily mean</p> <p>6 that they'll fight more often.</p> <p>7 Q. No, I think you just said that those</p> <p>8 fighters that weren't fighting for Strikeforce,</p> <p>9 Strikeforce would farm them out to fight under a</p> <p>10 local promoter's --</p> <p>11 A. No, that's not what I said.</p> <p>12 Q. Oh, I'm sorry.</p> <p>13 A. That's the opposite of what I said.</p> <p>14 Q. Oh.</p> <p>15 A. What I said was, on a Strikeforce show, half</p> <p>16 the fighters on that card, the untelevised undercard,</p> <p>17 were fighters they got a local promotion to throw on</p> <p>18 their card --</p> <p>19 Q. I see.</p> <p>20 A. -- onto the Strikeforce card. So they're</p> <p>21 not actually Strikeforce fighters.</p> <p>22 Q. Okay.</p> <p>23 A. So they're not using all of their spots for</p> <p>24 Strikeforce fighters.</p> <p>25 Q. Right. And -- but there -- but those fights</p>

<p style="text-align: right;">246</p> <p>1 SILVA</p> <p>2 that Strikeforce is promoting are occurring if</p> <p>3 Strikeforce exists and --</p> <p>4 A. Yes.</p> <p>5 Q. -- not occurring if Strikeforce doesn't</p> <p>6 exist; correct?</p> <p>7 A. Correct. But also it could be that some of</p> <p>8 those Strikeforce fighters are the ones getting</p> <p>9 fights in the UFC, and it might be a UFC fighter not</p> <p>10 getting the fight.</p> <p>11 Q. Okay.</p> <p>12 MR. CRAMER: Like to have the next</p> <p>13 document marked as Silva Exhibit 21.</p> <p>14 (Silva Deposition Exhibit 21 marked for</p> <p>15 identification.)</p> <p>16 Q. Silva 21, I believe the Bates number got cut</p> <p>17 off a little bit, but my understanding is the Bates</p> <p>18 number is COX-0041416. I believe this was produced</p> <p>19 to us by Monte Cox.</p> <p>20 A. Uh-huh.</p> <p>21 Q. Who is Monte Cox?</p> <p>22 A. He's an MMA manager.</p> <p>23 Q. You know who he is?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And this is a March 2013 e-mail --</p>	<p style="text-align: right;">248</p> <p>1 SILVA</p> <p>2 cut a hundred guys."</p> <p>3 What did you mean by that?</p> <p>4 A. You have to keep the roster at a manageable</p> <p>5 number, and it can be hard to predict. It</p> <p>6 fluctuates. And there's times that if you had an</p> <p>7 acquisition where you had one of these times where</p> <p>8 everybody seemed to be coming back at once, you just</p> <p>9 realize, all right, well, this -- we've got to get</p> <p>10 this under control.</p> <p>11 Q. And at this time, in March of 2013, you had</p> <p>12 in the -- in the range of a hundred guys too many on</p> <p>13 your roster; is that right?</p> <p>14 A. Somewhere in that range, yes.</p> <p>15 Q. Do you know whether you cut those guys?</p> <p>16 A. I'm sure eventually. Guys are cut after</p> <p>17 most shows.</p> <p>18 Q. After they lose?</p> <p>19 A. Yes. Usually multiple times.</p> <p>20 Q. So if somebody loses multiple times, you --</p> <p>21 you tend to cut them?</p> <p>22 A. Correct. Because you can't bring somebody</p> <p>23 new in until somebody old goes.</p> <p>24 Q. So at least as of March of 2013, you still</p> <p>25 had too many fighters under contract; is that right?</p>
<p style="text-align: right;">247</p> <p>1 SILVA</p> <p>2 series of e-mails, two e-mails between you and</p> <p>3 Mr. Cox.</p> <p>4 So Mr. Cox says to you on March 6, 2013:</p> <p>5 "Just a reminder that Joe Doerksen lives in</p> <p>6 Winnipeg" -- excuse me -- "2 of his last 4 fights</p> <p>7 were nominated for fights of the year in Canada and</p> <p>8 he won them both, over Luigi Fioravanti and Kalib</p> <p>9 Starnes. He is 49 and 16, won 3 of 4."</p> <p>10 And you respond: "No space to bring in</p> <p>11 locals. Have to cut hundred guys. Joe."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you mean to convey to Mr. Cox here?</p> <p>15 A. For a lot of the managers, they see, and --</p> <p>16 and quite often it is a -- a benefit to get a fighter</p> <p>17 in if it's in their hometown. It's like, oh, it's --</p> <p>18 he's already there, he's got local fans, maybe we'll</p> <p>19 get some local press. So it -- it's a nice thing to</p> <p>20 do when you have the roster space to do it.</p> <p>21 As I was telling him, as nice as that might</p> <p>22 be, my main responsibility was I have all these</p> <p>23 fighters and -- and I need to get them fights rather</p> <p>24 than bring in somebody just to be a local attraction.</p> <p>25 Q. And you said: "I have no space. I have to</p>	<p style="text-align: right;">249</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. All right. Please turn to Exhibit 6, which</p> <p>4 is the text message compilation.</p> <p>5 MR. CRAMER: And before we do that, why</p> <p>6 don't we go take a break because we're running</p> <p>7 out of tape time.</p> <p>8 THE VIDEOGRAPHER: Off the record at 1:32.</p> <p>9 (Recess taken at 1:32 p m., proceedings</p> <p>10 resumed at 1:38 p m.)</p> <p>11 THE VIDEOGRAPHER: Here begins Media</p> <p>12 Number 4 in the video-recorded deposition of</p> <p>13 Joseph Silva. We're back on the record at</p> <p>14 1:38 p.m.</p> <p>15 BY MR. CRAMER:</p> <p>16 Q. All right. I would like to draw your</p> <p>17 attention to Exhibit 6, Silva Exhibit 6, page 24,</p> <p>18 which is the -- a compilation of texts, and have you</p> <p>19 look in particular at the text dated February 26th,</p> <p>20 2015, at 1:30.</p> <p>21 And there's a text that someone at [REDACTED]</p> <p>22 [REDACTED] sent to you saying: "Any ideas for Colby</p> <p>23 Covington?"</p> <p>24 And then you respond at 2:17: "Nothing yet</p> <p>25 for Cody. I have a backlog of guys who need fights</p>

<p style="text-align: right;">250</p> <p>1 SILVA</p> <p>2 at the moment but I'm working on it."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. What were you -- do you recall who sent you</p> <p>6 that?</p> <p>7 A. That would be Brian Butler.</p> <p>8 Q. So Brian Butler said, "Any ideas for Colby</p> <p>9 Covington?"</p> <p>10 A. Yes.</p> <p>11 Q. Colby is a UFC fighter?</p> <p>12 A. Yes.</p> <p>13 Q. And you said nothing yet, you said you had a</p> <p>14 backlog; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And so it's fair to say that as of the date</p> <p>17 of this text in February of 2015, you still had a</p> <p>18 backlog of fighters; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall when you were able to get</p> <p>21 Mr. Covington a fight?</p> <p>22 A. I don't recall. We have thousands of</p> <p>23 fights.</p> <p>24 Q. Right. Okay. Put that aside.</p> <p>25 MR. CRAMER: Like to mark the next</p>	<p style="text-align: right;">252</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall who you were stating this to?</p> <p>4 A. I do not know.</p> <p>5 Q. But this is a text that you wrote?</p> <p>6 A. Yes.</p> <p>7 Q. And it's fair to say that as of</p> <p>8 February 27th, 2015, you had too many guys under</p> <p>9 contract to get them fights?</p> <p>10 A. No.</p> <p>11 Q. What were you saying here?</p> <p>12 A. What -- from looking at the context of this</p> <p>13 text, it would seem like they're requesting something</p> <p>14 very specific, and I'm saying, you're lucky to get a</p> <p>15 fight at all. It -- it could be done, but when</p> <p>16 people go, I want to fight this guy on this date and</p> <p>17 this place, it's like, look, I got tons of fighters</p> <p>18 I've got to get fights. You're lucky to get a fight</p> <p>19 at all, let alone on this very specific thing you're</p> <p>20 asking.</p> <p>21 Q. I see. So someone's saying I want to fight</p> <p>22 so and so on -- in such and such event, and you're</p> <p>23 like, look, I -- I have enough trouble giving the</p> <p>24 amount of people I have under contract fights at</p> <p>25 all --</p>
<p style="text-align: right;">251</p> <p>1 SILVA</p> <p>2 document as Silva Exhibit 22.</p> <p>3 (Silva Deposition Exhibit 22 marked for</p> <p>4 identification.)</p> <p>5 Q. Silva 22 bears the Bates number</p> <p>6 TPS0021184.00001, it's a one-page series of two</p> <p>7 e-mails. This is a March 2013 e-mail from you --</p> <p>8 A. I -- I think this is a text --</p> <p>9 MR. MADDEN: It's -- we've covered that.</p> <p>10 MR. CRAMER: Oh, I'm sorry. I already</p> <p>11 covered that.</p> <p>12 MR. MADDEN: That's the last one.</p> <p>13 MR. CRAMER: I meant 113. That's the last</p> <p>14 one. Sorry. I had a stroke there. I'm back.</p> <p>15 Q. So this is Silva --</p> <p>16 MR. MADDEN: 22.</p> <p>17 Q. -- 22. Silva 22. All right. This is a --</p> <p>18 a text message, Silva 22. It bears the Bates number</p> <p>19 ZFL-1879488. This is the way it was produced to us</p> <p>20 by Zuffa. It's dated February 27, 2015. And it's</p> <p>21 from, I believe, you to [REDACTED], and it says: "Right now</p> <p>22 people are lucky to get a fight at all. I have 585</p> <p>23 guys under contract and now they all want to fight at</p> <p>24 the same time."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">253</p> <p>1 SILVA</p> <p>2 A. Right.</p> <p>3 Q. -- let alone giving you the specific you --</p> <p>4 A. And it --</p> <p>5 Q. -- request that you want?</p> <p>6 A. And it's not an unusual request, because</p> <p>7 what would happen is, say a fighter maybe has a</p> <p>8 training partner who has a fight on a particular</p> <p>9 card, so it would be, oh, it would be nice if we</p> <p>10 could travel together. Like, I get that, but I got a</p> <p>11 lot of guys that I got to get to, and your training</p> <p>12 partner fought more recent -- you fought more</p> <p>13 recently than your training partner did, so I need to</p> <p>14 get somebody else in.</p> <p>15 Q. I see. So it's fair to say that as of</p> <p>16 February 2015, you still had a -- an issue with</p> <p>17 having a glut of fighters under contract?</p> <p>18 MR. ISAACSON: Objection to form.</p> <p>19 Q. You were still having trouble getting</p> <p>20 fighters fights on a regular basis?</p> <p>21 A. Yes, at --</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 A. -- at any time that they might -- there</p> <p>24 might be -- it's like, I can get you a fight but it's</p> <p>25 going to be this date, this place, and that might not</p>

<p style="text-align: right;">254</p> <p>1 SILVA</p> <p>2 always be what they wanted.</p> <p>3 But if we were not able to get people</p> <p>4 fights, we would have breached contracts, which I</p> <p>5 don't believe we ever did.</p> <p>6 So it would be done, but I had the</p> <p>7 frustration that I was always running around doing my</p> <p>8 best to make sure everybody did get their fights, but</p> <p>9 it was certainly a challenge.</p> <p>10 Q. What is your understanding of -- of what the</p> <p>11 contract requires in terms of how many fights you</p> <p>12 needed to offer them per year?</p> <p>13 A. It would depend on the contract. There was</p> <p>14 four-fight contracts. There was six-fight contracts.</p> <p>15 Q. So if it's a four-fight contract, what is</p> <p>16 your understanding of what the contract requires as</p> <p>17 to how many fights that person is supposed to have</p> <p>18 per year?</p> <p>19 A. I believe also that they -- they changed</p> <p>20 throughout the years what the length of the contract</p> <p>21 was.</p> <p>22 Q. So --</p> <p>23 A. But I know for me, what I liked, the target</p> <p>24 that I was shooting for, just for me personally, was</p> <p>25 try to get them fighting once every four months.</p>	<p style="text-align: right;">256</p> <p>1 SILVA</p> <p>2 order to comply with that contract, Zuffa needed to</p> <p>3 give at least the offer of four fights during that</p> <p>4 30-month period?</p> <p>5 A. Unless it was extended by injury.</p> <p>6 Q. Right. But, yes, the answer is yes, unless</p> <p>7 there was an extended?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. But still here in February of 2015</p> <p>10 you were saying some people are lucky to get a fight</p> <p>11 at all; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And so you were struggling to try to comply</p> <p>14 with what you saw as the requirements of the</p> <p>15 contracts; is that right?</p> <p>16 A. I always struggle with it because it</p> <p>17 mattered to me. I could not be dismissive of it. If</p> <p>18 you're asking me to fight, I feel that pressure to</p> <p>19 get you a fight. And, yeah, there's a lot of times</p> <p>20 it was challenging, especially because it would come</p> <p>21 out of the blue.</p> <p>22 Sometimes you have fighters, like no, I</p> <p>23 absolutely can't fight, I'm injured; they're like no,</p> <p>24 I'm healed and I want to fight tomorrow. You would</p> <p>25 figure you would be notified, hey, I'm coming off</p>
<p style="text-align: right;">255</p> <p>1 SILVA</p> <p>2 Q. Okay. And is it your -- so -- so the</p> <p>3 contracts denoted the term both in number of fights</p> <p>4 and number of months; right?</p> <p>5 A. Yes.</p> <p>6 Q. And was it your understanding that when a</p> <p>7 contract denoted a term in that way, say, four fights</p> <p>8 in 30 months, it was your understanding that they</p> <p>9 were supposed to be -- have -- get those four fights</p> <p>10 over that 30-month period?</p> <p>11 A. Yes.</p> <p>12 Q. So that, is it your understanding that it</p> <p>13 would have violated the contract denoted that way, to</p> <p>14 not offer four fights during that 30-month period?</p> <p>15 MR. ISAACSON: Objection to form.</p> <p>16 A. Yeah, as long as there's no extenuating</p> <p>17 circumstances, like where they said that they</p> <p>18 couldn't fight, they were injured, they refused to</p> <p>19 fight, they didn't like that opponent. It's like,</p> <p>20 all right, well, I tried to get you a fight --</p> <p>21 Q. Right.</p> <p>22 A. -- you're just choosing not to.</p> <p>23 Q. So your interpretation was that you had to</p> <p>24 at least offer the fighter four -- for a four-fight,</p> <p>25 30-month contract, it was your understanding that in</p>	<p style="text-align: right;">257</p> <p>1 SILVA</p> <p>2 injury, I'm going in training, can I get a fight, you</p> <p>3 know, two months from now. Sure, I'll keep your</p> <p>4 thing. But if you go, I need to fight tomorrow, it's</p> <p>5 like, all tomorrow's cards are -- are done right now,</p> <p>6 I can look to the future. But I -- I tried very hard</p> <p>7 to -- to stay on top of that.</p> <p>8 Q. So just from the last series of e-mails and</p> <p>9 texts, I'm -- is it fair to say that at least from</p> <p>10 2010 to 2015 you had been complaining to managers and</p> <p>11 fighters and others that you had more fighters under</p> <p>12 contract than you had fights to give them?</p> <p>13 MR. ISAACSON: Objection to form.</p> <p>14 Q. Is that fair?</p> <p>15 A. Yeah. To do ideally, I would say, because</p> <p>16 where I'm trying to explain it to them, it's not --</p> <p>17 obviously we eventually got those people fights. But</p> <p>18 it's not that you necessarily had them all plotted</p> <p>19 out. You needed to wait on opportunities.</p> <p>20 Now, there are -- there is a high injury</p> <p>21 rate in this sport in preparation for it, so</p> <p>22 opportunities did come up quite often and I was able</p> <p>23 to use those guys sooner than I or they expected, but</p> <p>24 until that spot came up, I didn't -- I couldn't --</p> <p>25 all I could tell them is, like, I'm looking, I'm</p>

<p style="text-align: right;">258</p> <p>1 SILVA</p> <p>2 working on it, I'm trying. And it would usually work</p> <p>3 out, but it didn't mean that it -- it -- it</p> <p>4 constantly had to be stood on top of, to keep under</p> <p>5 control.</p> <p>6 Q. Okay. Now, Zuffa's told us that one of your</p> <p>7 responsibilities while you were -- you were at UFC</p> <p>8 was to authorize and approve the terms to be included</p> <p>9 in any UFC fighter contract. Is that accurate?</p> <p>10 A. I think if they're saying what the purse</p> <p>11 was, maybe what the number of fights were, like that.</p> <p>12 But as not as far as any legalese. I'm not a lawyer.</p> <p>13 Q. They said you were responsible for or with</p> <p>14 primary authority regarding individuals authorized to</p> <p>15 approve the terms to be included in any UFC fighter</p> <p>16 contracts.</p> <p>17 Would you say that you were authorized to</p> <p>18 approve the terms to be included in any UFC fighter</p> <p>19 contracts?</p> <p>20 A. I don't understand the wording.</p> <p>21 Q. Okay.</p> <p>22 A. The only -- I never changed anything about</p> <p>23 the contract other than this is how much it's for,</p> <p>24 this is how many fights it's for. Anything else, any</p> <p>25 change that needed to be made, had to go through</p>	<p style="text-align: right;">260</p> <p>1 SILVA</p> <p>2 this is something that Zuffa has told us, "Since 2001</p> <p>3 Zuffa's practice has been to use a standard agreement</p> <p>4 as a base in its negotiations with athletes.</p> <p>5 Periodically Zuffa reviews the standard agreement to</p> <p>6 determine whether it is necessary to clarify the</p> <p>7 language in the agreement and to address business</p> <p>8 issues that have arisen."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 MR. ISAACSON: Objection to form.</p> <p>12 Q. Is that a fair description?</p> <p>13 A. Yes.</p> <p>14 Q. When it was time to present a fighter with a</p> <p>15 new promotional ancillary rights agreement, it's your</p> <p>16 understanding that the starting point would be</p> <p>17 whatever the contemporaneous version of the standard</p> <p>18 agreement that existed at the time, that's what would</p> <p>19 be given to the fighter; is that right?</p> <p>20 A. Would you rephrase?</p> <p>21 Q. So the -- Zuffa had a standard promotional</p> <p>22 and ancillary rights agreement --</p> <p>23 A. Yes.</p> <p>24 Q. -- that it would use to start negotiations</p> <p>25 with fighters; correct?</p>
<p style="text-align: right;">259</p> <p>1 SILVA</p> <p>2 legal.</p> <p>3 Q. Okay. They also said you were one of the</p> <p>4 individuals responsible for negotiating UFC fighter</p> <p>5 contracts. Is that right?</p> <p>6 A. Yes.</p> <p>7 Q. You were. Okay.</p> <p>8 So is it true that in order to fight a bout</p> <p>9 for the UFC, the fighter is required to sign what</p> <p>10 Zuffa called the exclusive promotional and ancillary</p> <p>11 rights agreement?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And as far as you're aware, every UFC</p> <p>14 fighter is required to sign one of those agreements</p> <p>15 in order to compete in the UFC?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware of any fighter that Zuffa has</p> <p>18 allowed to compete in the UFC without signing a</p> <p>19 promotional and ancillary rights agreement?</p> <p>20 A. Not that I'm aware of.</p> <p>21 Q. Is it fair to say that when -- that -- that</p> <p>22 the promotional and ancillary rights agreement was</p> <p>23 amended from time to time; is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Would you also agree that since 2001 -- and</p>	<p style="text-align: right;">261</p> <p>1 SILVA</p> <p>2 A. I didn't negotiate with an agreement.</p> <p>3 Q. You would send -- you would send or have</p> <p>4 Ms. Long or someone else send the fighters an</p> <p>5 agreement at some point; correct?</p> <p>6 A. Right. Once we came to a deal. Then what</p> <p>7 would happen beyond that point didn't involve me.</p> <p>8 What I would do, for example, would be like, okay,</p> <p>9 I'll give you a new deal, I'll give you this much</p> <p>10 money, this much money, this much money, no, and they</p> <p>11 go yes or they go no, and if they said yes, then I'd</p> <p>12 send it to Tracy, she would send them the contract.</p> <p>13 Now, it's possible then, especially if they</p> <p>14 made any revisions, that a manager may review it and</p> <p>15 go, oh, wait, we don't agree with this thing, this</p> <p>16 change from there. It's like, speak with legal, work</p> <p>17 it out with them, because I didn't make those</p> <p>18 revisions.</p> <p>19 Q. Okay. So you would negotiate the financial</p> <p>20 terms?</p> <p>21 A. Yes.</p> <p>22 Q. And the term; correct?</p> <p>23 A. Yes.</p> <p>24 Q. And then hand it over to legal?</p> <p>25 A. Yes. Actually, not technically term, number</p>

66 (Pages 258 to 261)

<p style="text-align: right;">262</p> <p>1 SILVA</p> <p>2 of fights.</p> <p>3 Q. Number of fights.</p> <p>4 A. Because what the term was changed at</p> <p>5 different -- they're like, all right, well -- at one</p> <p>6 time this amount of fights equaled this much time,</p> <p>7 and then later on it was amended, but I had nothing</p> <p>8 to do with that amendment.</p> <p>9 Q. Okay. So you -- you negotiated number of</p> <p>10 fights --</p> <p>11 A. And salary.</p> <p>12 Q. -- and salary. And typically it was in the</p> <p>13 form of win and show?</p> <p>14 A. Yes.</p> <p>15 Q. Certain amount if you won, a certain amount</p> <p>16 to show up?</p> <p>17 A. Yes.</p> <p>18 Q. Is it fair to say that while you were</p> <p>19 negotiating with fighters, you understood that the</p> <p>20 promotional and ancillary rights agreements had</p> <p>21 certain standard provisions that the fighters were</p> <p>22 expected to agree to?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 MR. CRAMER: Like to mark as Silva</p>	<p style="text-align: right;">264</p> <p>1 SILVA</p> <p>2 changes. I replied asking what changes. We don't</p> <p>3 provide word docs. He hasn't answered."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Was it the policy of Zuffa not to provide a</p> <p>7 Word or electronic version that could be changed of</p> <p>8 its standard form contracts?</p> <p>9 A. I don't believe Tracy would know that, and</p> <p>10 she was saying that she did not.</p> <p>11 One -- in responding to it, the thing that I</p> <p>12 was pointing out is, people have had the contracts</p> <p>13 amended, but they do it going through it with our</p> <p>14 lawyers. With -- I think they are trying to avoid,</p> <p>15 which has happened, is that people crack the</p> <p>16 encrypted and made changes hoping to slip it through.</p> <p>17 Q. Oh.</p> <p>18 A. Not like we're negotiating changes with you,</p> <p>19 it's like we made changes to this and -- and we're</p> <p>20 just hoping you're not going to notice, and we now</p> <p>21 get 20 plane tickets.</p> <p>22 So it -- that's what we're telling them.</p> <p>23 It's like, if you have issues, talk to our legal</p> <p>24 about it, maybe that can be amended, but no, not on</p> <p>25 your own, you can't change everything and we don't</p>
<p style="text-align: right;">263</p> <p>1 SILVA</p> <p>2 Exhibit 23 the next document.</p> <p>3 (Silva Deposition Exhibit 23 marked for</p> <p>4 identification.)</p> <p>5 Q. Okay. Silva 23 is a two-page series of</p> <p>6 e-mails, it bears the Bates range ZFL-0818873 through</p> <p>7 874. And this is a March 2015 e-mail exchange, and</p> <p>8 the subject is Ryan Jimmo, J-I-M-M-O.</p> <p>9 A. Yes.</p> <p>10 Q. Ryan Jimmo was a UFC fighter; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. All right. In the middle of the page</p> <p>13 there's an e-mail from you that says -- one that is</p> <p>14 dated March 4th, 2015 at 6:05 p.m.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. It says: "Did he sign his new promo?"</p> <p>18 And -- and is it fair that what you were</p> <p>19 saying in this e-mail is, did he sign his new</p> <p>20 promotional and ancillary rights agreement; is that</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And then Ms. Long responds to you on</p> <p>24 March 4th at 10:55 a.m.: "No. And he emailed me</p> <p>25 this morning asking for word version to make some</p>	<p style="text-align: right;">265</p> <p>1 SILVA</p> <p>2 know what you have changed.</p> <p>3 Q. Okay. But then you say on March 4th, 2015:</p> <p>4 "You can't just make changes to the contract."</p> <p>5 Do you see that?</p> <p>6 A. Yes. Yes.</p> <p>7 Q. And that was generally your understanding of</p> <p>8 the policy, that fighters can't just willy-nilly make</p> <p>9 changes to the standard contract; right?</p> <p>10 A. Correct. Especially if we don't know what</p> <p>11 those changes are. If they didn't redline them. If</p> <p>12 they've been there, it's just like you can't just</p> <p>13 rewrite it.</p> <p>14 MR. CRAMER: All right. I'd like to mark</p> <p>15 as the next document Silva Exhibit 24.</p> <p>16 (Silva Deposition Exhibit 24 marked for</p> <p>17 identification.)</p> <p>18 BY MR. CRAMER:</p> <p>19 Q. Silva 24 is a series of e-mails bearing the</p> <p>20 Bates range ZFL-1960998 through 1961001. Please look</p> <p>21 at the bottom of the second page, at the e-mail from</p> <p>22 Tamira Cason to Tracy Hyman.</p> <p>23 Who is Tracy -- Tamira Cason?</p> <p>24 A. I do not know.</p> <p>25 Q. And Tracy Hyman is Tracy Long?</p>

<p style="text-align: right;">270</p> <p>1 SILVA</p> <p>2 Q. Do you know what the "in perpetuity</p> <p>3 language" Mr. Mersch is referring to here is?</p> <p>4 A. I believe it concerns using footage of the</p> <p>5 fighter, that there would not be a limit in time;</p> <p>6 that if it's in the UFC library, that the UFC could</p> <p>7 use that footage at any time.</p> <p>8 Q. And ancillary rights are the rights to use,</p> <p>9 display, reproduce, et cetera, the name, image, or</p> <p>10 likeness of the fighter?</p> <p>11 A. Yes.</p> <p>12 Q. And what do you think Mr. Mersch meant by</p> <p>13 saying that the in perpetuity language is one of the</p> <p>14 most important provisions in the contract?</p> <p>15 A. Well, it would be hurtful for the promotion</p> <p>16 not to be able to show past fights. We use -- those</p> <p>17 past fights help to promote future fights.</p> <p>18 Q. Explain that. How does a past fight help to</p> <p>19 promote future fights?</p> <p>20 A. Say Rashad Evans fights Jon Jones. Rashad</p> <p>21 Evans is no longer with the company, but Jon Jones is</p> <p>22 going to fight again, you'd want to be able to show</p> <p>23 footage from that fight to help promote the Jon Jones</p> <p>24 fight.</p> <p>25 Q. Why? Why?</p>	<p style="text-align: right;">272</p> <p>1 SILVA</p> <p>2 A. I'm not sure --</p> <p>3 Q. So, for example, is it your understanding</p> <p>4 that the ancillary rights provision of this agreement</p> <p>5 in perpetuity that we have just been talking about</p> <p>6 would not only give Zuffa the right to use prior</p> <p>7 video footage when it wanted to, but it also would</p> <p>8 give Zuffa the right to stop someone else, like that</p> <p>9 fighter, from using that video if it fought for</p> <p>10 another promotion; is that right?</p> <p>11 A. Yes.</p> <p>12 MR. ISAACSON: Objection to form.</p> <p>13 Q. And that was important to Zuffa too;</p> <p>14 correct?</p> <p>15 A. Well, we did --</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. -- feel that that was their footage, it was</p> <p>18 from their promotion, so yes, it was important for</p> <p>19 them to have control over how it was used.</p> <p>20 Q. And one reason for that is that Zuffa did</p> <p>21 not want a fighter who once fought in the UFC and now</p> <p>22 is fighting for another promotion to be able to</p> <p>23 promote himself and the new MMA promotion with UFC</p> <p>24 video; correct?</p> <p>25 MR. ISAACSON: Objection to form.</p>
<p style="text-align: right;">271</p> <p>1 SILVA</p> <p>2 A. Why?</p> <p>3 Q. Yeah. Why?</p> <p>4 Why would you want to show prior footage of</p> <p>5 a fighter in order to promote the fight?</p> <p>6 A. Because that's how you promote a fight. You</p> <p>7 want to establish what this person has accomplished.</p> <p>8 Q. And an important way to establish that is to</p> <p>9 show video of that fighter fighting previously;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And Zuffa felt it was very important to be</p> <p>13 able to promote its fighters and its fights by using</p> <p>14 video of fighters' prior fights; is that right?</p> <p>15 A. Yes. There's times that we had to not do</p> <p>16 that because it wasn't available, but it would be</p> <p>17 preferable to have it, for sure.</p> <p>18 Q. And is it your understanding that Zuffa,</p> <p>19 through this contract, not only obtained for itself</p> <p>20 in perpetuity, forever, the right to these ancillary</p> <p>21 rights, but part of that retention of rights was to</p> <p>22 allow Zuffa to have that exclusively, in other words,</p> <p>23 that no one else could have those rights? Is that</p> <p>24 your understanding too?</p> <p>25 MR. ISAACSON: Objection to form.</p>	<p style="text-align: right;">273</p> <p>1 SILVA</p> <p>2 A. It's more that -- I mean, another promotion</p> <p>3 just can't use our footage. It's not their</p> <p>4 promotion's footage. People have come from the UFC</p> <p>5 and fought in other shows and they certainly mention</p> <p>6 that and it's used that, oh, this was former Rory</p> <p>7 MacDonald fighting in Bellator now, they very much</p> <p>8 use that, but not the footage. The footage is the</p> <p>9 UFC's footage to show and -- and to use. So I think</p> <p>10 it's outside just for promotion uses.</p> <p>11 Q. Okay. Are you aware that Zuffa gets video</p> <p>12 footage from fighters who have the -- showing video</p> <p>13 of their fights at other promotions so that Zuffa can</p> <p>14 use and UFC can use to promote that fighter when</p> <p>15 they're in the UFC?</p> <p>16 A. That wouldn't be through the fighters. That</p> <p>17 would have to be through the promotions themselves.</p> <p>18 Q. But are you aware that Zuffa's contract</p> <p>19 provides the -- Zuffa's standard contract provides</p> <p>20 that Zuffa has the right to, if the fighter owns</p> <p>21 that -- that video, that Zuffa would have the right</p> <p>22 to use the fighter's prior videos at other MMA</p> <p>23 organizations to promote --</p> <p>24 A. I have no idea.</p> <p>25 Q. You -- you've never been involved in</p>

<p style="text-align: right;">274</p> <p>1 SILVA</p> <p>2 promoting a fight of a fighter who just came over</p> <p>3 from Bellator and using footage of that fighter's</p> <p>4 prior fights in another MMA promotion?</p> <p>5 A. I don't think we've ever used Bellator</p> <p>6 footage. I don't think legally we could.</p> <p>7 Q. What about World Series of Fighting?</p> <p>8 A. If World Series of Fighting chose to give</p> <p>9 it -- that to us. But that doesn't belong to the</p> <p>10 fighter, that belongs to World Series of Fighting, is</p> <p>11 my understanding. I don't know if somebody has some</p> <p>12 weird deal where they would own their own footage, I</p> <p>13 don't think that's the case.</p> <p>14 Q. Okay. Do you know what the champions clause</p> <p>15 is?</p> <p>16 A. Yes.</p> <p>17 Q. What is it?</p> <p>18 A. If you are the champion and you fought your</p> <p>19 last fight under contract, you have an exclusive</p> <p>20 negotiation period, and if you do not come to a deal,</p> <p>21 then there is a period of, I believe it's a year,</p> <p>22 before you could just leave.</p> <p>23 Q. So if you're a champion, the Zuffa contract</p> <p>24 provides that Zuffa has a one-year exclusivity on you</p> <p>25 after the date the fighter becomes a champion; is</p>	<p style="text-align: right;">276</p> <p>1 SILVA</p> <p>2 provision?</p> <p>3 A. Because they're trying to fulfill the</p> <p>4 contract. They're trying to give the fighter as many</p> <p>5 fights as they said they would. But they need the</p> <p>6 time to do it. And if a fighter is rejecting fights,</p> <p>7 we don't have the time to do that.</p> <p>8 Q. You're also aware that Zuffa has a provision</p> <p>9 called the retirement clause, that sometimes it calls</p> <p>10 the retirement clause?</p> <p>11 A. Yes.</p> <p>12 Q. And that provision provides that if a</p> <p>13 fighter says that he or she retires during the term</p> <p>14 of their Zuffa contract, that their contract is</p> <p>15 suspended, and if they unretire, the contract picks</p> <p>16 up essentially from the point of retirement; is that</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. Why does Zuffa want that provision?</p> <p>20 A. I do not know.</p> <p>21 Q. Have you ever dealt -- strike that.</p> <p>22 And I think we also talked about provisions</p> <p>23 in Zuffa's contract that relate to the right of first</p> <p>24 negotiation and right to match?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">275</p> <p>1 SILVA</p> <p>2 that right?</p> <p>3 A. That's my understanding.</p> <p>4 Q. Do you know why Zuffa wants that?</p> <p>5 A. I believe they have invested in anybody</p> <p>6 they've put into a championship fight and them being</p> <p>7 a champion, and they're looking for a return on their</p> <p>8 investment.</p> <p>9 Q. Okay. Zuffa also has, you're aware, a</p> <p>10 provision that allows Zuffa to extend the term of a</p> <p>11 contract if a fighter tells Zuffa that they are</p> <p>12 unwilling or unable to fight; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And that provision allows Zuffa to extend</p> <p>15 the term of a contract for how long, is your</p> <p>16 understanding?</p> <p>17 A. I would have to look. And I'm sure it may</p> <p>18 have changed through the years.</p> <p>19 Q. Does it sound right that it's something like</p> <p>20 6 months or for however long that fighter is unable</p> <p>21 to fight?</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 Q. Is that right?</p> <p>24 A. That's possible.</p> <p>25 Q. Okay. And why does Zuffa want that</p>	<p style="text-align: right;">277</p> <p>1 SILVA</p> <p>2 Q. Right? There's a 90-day period after the</p> <p>3 term of the contract that Zuffa has the exclusive</p> <p>4 negotiating right.</p> <p>5 A. Yes.</p> <p>6 Q. And then there's a year or 12-month period</p> <p>7 where Zuffa has the right to match?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And all of the provisions that I just</p> <p>10 described, would you consider standard terms in</p> <p>11 Zuffa's contracts?</p> <p>12 A. Yes.</p> <p>13 Q. They're in just about every contract that</p> <p>14 Zuffa has with fighters, to your knowledge?</p> <p>15 A. To my knowledge.</p> <p>16 MR. CRAMER: I'd like to mark the next</p> <p>17 document as Silva 25. Thank you.</p> <p>18 (Silva Deposition Exhibit 25 marked for</p> <p>19 identification.)</p> <p>20 Q. Silva Exhibit 25 is a February 2011 e-mail</p> <p>21 chain between Mersch and some others, including</p> <p>22 representatives of fighter Jorge Santiago, and it</p> <p>23 bears the Bates range ZFL-2134847 through 849.</p> <p>24 The very top of the page, Mersch -- first of</p> <p>25 all, who is Mr. Tabachnik, do you know? He's a</p>

<p style="text-align: right;">278</p> <p>1 SILVA</p> <p>2 lawyer?</p> <p>3 A. Yeah, I believe he's a lawyer.</p> <p>4 Q. Okay.</p> <p>5 A. I accident -- I got two copies of this.</p> <p>6 Q. Oh. And who is Jorge Luiz Santiago</p> <p>7 Rodrigues?</p> <p>8 A. He is an MMA fighter.</p> <p>9 Q. Okay. And Mersch says to Tabachnik at the</p> <p>10 top: "With all due respect, we're not changing our</p> <p>11 standard agreements for Mr. Santiago. If</p> <p>12 Mr. Santiago doesn't want to sign them as is, just</p> <p>13 let us know and I will inform Joe Silva and Dana that</p> <p>14 he is not interested in competing in the UFC."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you recall learning about the interchange</p> <p>18 between Mr. Rodrigues and Mr. Mersch about</p> <p>19 Rodrigues's contract?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. Do you know whether Mr. Rodrigues</p> <p>22 ultimately signed his contract?</p> <p>23 A. Honestly, I don't -- I don't remember.</p> <p>24 Q. Yeah, that's fine.</p> <p>25 And is it fair to say that Mr. Mersch's</p>	<p style="text-align: right;">280</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Now turn to the top of page 2. The</p> <p>4 top of page 2 is the continuation of an e-mail from</p> <p>5 Mr. Alameddine to Mr. Silva, to you, which he sent on</p> <p>6 Sunday, July 26, 2009, at 4:06 p.m.</p> <p>7 And at the top of page 2, in the first full</p> <p>8 paragraph, he's -- Wad says to you: "Knowing that</p> <p>9 UFC contracts stipulate nonnegotiable worldwide</p> <p>10 exclusivity, I am keen to explore aspects of a UFC</p> <p>11 deal that are more flexible."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall this request of his?</p> <p>15 A. I don't recall it.</p> <p>16 Q. Okay. Is it -- is -- was Wad generally</p> <p>17 correct that UFC contracts stipulate nonnegotiable</p> <p>18 worldwide exclusivity for the UFC?</p> <p>19 A. Yes.</p> <p>20 Q. All right. In the next paragraph Wad says:</p> <p>21 "Given he'd now be ineligible to fight for other</p> <p>22 organizations anywhere in the world like Dream,</p> <p>23 Sengoku, Strikeforce, M-1 Global and MFC, who are all</p> <p>24 interested in him; Paul would have his normally high</p> <p>25 level of activity halved from 6 fights a year to just</p>
<p style="text-align: right;">279</p> <p>1 SILVA</p> <p>2 position with respect to the standard agreements is</p> <p>3 your understanding of what the UFC's general position</p> <p>4 was, which was they don't tend to change their</p> <p>5 standard agreements with the standard terms we just</p> <p>6 talked about for fighters; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. You can put that document aside.</p> <p>9 MR. CRAMER: Thank you. Like to mark the</p> <p>10 next document as Silva 26.</p> <p>11 (Silva Deposition Exhibit 26 marked for</p> <p>12 identification.)</p> <p>13 Q. Silva 26 is a series of e-mails, bears the</p> <p>14 Bates range ZFL-2287140 through 144. And this at the</p> <p>15 top is an e-mail from you to Wad Alameddine. Who is</p> <p>16 he?</p> <p>17 A. He's an MMA manager.</p> <p>18 Q. And is it fair to say that you sent the top</p> <p>19 e-mail to Mr. Alameddine on Sunday, July 26, 2009; is</p> <p>20 that right?</p> <p>21 A. Yes.</p> <p>22 Q. And this is regarding Paul Daley; is that</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. And Paul Daley was an MMA fighter?</p>	<p style="text-align: right;">281</p> <p>1 SILVA</p> <p>2 3."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. It's fair that -- to say that Dream and</p> <p>6 Sengoku and Strikeforce and M-1 Global and MFC are</p> <p>7 all MMA promotions?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And -- and Wad is accurately</p> <p>10 describing the situation that the fighter would be in</p> <p>11 is -- if he signed with the UFC, that would be he</p> <p>12 couldn't fight for any of these other entities;</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And is it also fair to say that in</p> <p>16 general his activity would be halved from the six</p> <p>17 fights a year that he likes to have to just three?</p> <p>18 A. No, I would dispute that. I would have to</p> <p>19 go back to see if he was actually fighting that</p> <p>20 actively. But we have also had fighters who wanted</p> <p>21 to be active, like Cowboy Cerrone, fight six times in</p> <p>22 a year.</p> <p>23 Q. Okay. All right. If you turn to the first</p> <p>24 page, there's an e-mail from Wad to you dated Sunday,</p> <p>25 July 26, 2009, and he says: "So are the exclusivity</p>

<p style="text-align: right;">282</p> <p>1 SILVA</p> <p>2 terms the same?" And he's asking for some</p> <p>3 alternative terms.</p> <p>4 And you say, "We don't. The UFC deal is</p> <p>5 exclusive."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And that's accurately describing the UFC</p> <p>9 deal?</p> <p>10 A. Yes.</p> <p>11 Q. And you say: "I am offering the same money</p> <p>12 as Affliction which is more than I would have offered</p> <p>13 if he was not under that deal but UFC contracts are</p> <p>14 exclusive."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Explain to me what you mean by offering him</p> <p>18 more because he was previously under an Affliction</p> <p>19 deal.</p> <p>20 A. Because they're able to bring me -- they're</p> <p>21 going, look, this is what we were offered, this is</p> <p>22 the deal we have, so I felt that gave him some</p> <p>23 leverage. It was like, all right, somebody is</p> <p>24 willing to pay you that much, all right, I'll -- I'll</p> <p>25 match that.</p>	<p style="text-align: right;">284</p> <p>1 SILVA</p> <p>2 A. Well, UFC had a different, conflicting video</p> <p>3 game deal.</p> <p>4 Q. What was the UFC's conflicting video game</p> <p>5 deal?</p> <p>6 A. I believe it was -- at the time, it was --</p> <p>7 we just had our own -- we had a video game deal with</p> <p>8 another video game manufacturer. It wasn't EA at the</p> <p>9 time.</p> <p>10 Q. EA Sports is a video game company?</p> <p>11 A. Correct.</p> <p>12 Q. And it was trying to put out a video game of</p> <p>13 MMA?</p> <p>14 A. Yes.</p> <p>15 Q. And the UFC had a competing contract with</p> <p>16 another video game company?</p> <p>17 A. Correct.</p> <p>18 Q. And it was UFC's policy not to sign fighters</p> <p>19 who had signed deals with EA; is that right?</p> <p>20 A. Well, there was just an issue of how that</p> <p>21 conflict would be resolved, which was not anything</p> <p>22 that I would deal with, so I was just told to, you</p> <p>23 know, make sure that that conflict wasn't there.</p> <p>24 Q. You were told to make sure not to sign</p> <p>25 fighters who had signed the -- up -- signed up with</p>
<p style="text-align: right;">283</p> <p>1 SILVA</p> <p>2 Q. So if a fighter has a -- an existing deal or</p> <p>3 a proposed deal with another MMA promotion, that</p> <p>4 fighter -- that gives that fighter a bit of leverage</p> <p>5 to negotiate a higher compensation level with the</p> <p>6 UFC; is that fair?</p> <p>7 A. It can.</p> <p>8 Q. Okay. Now, if you look at the -- the next</p> <p>9 sentence, you say: "He cannot sign the EA deal if he</p> <p>10 ever wants to be in the UFC."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What's that referring to?</p> <p>14 A. That's an Electronic Arts video game deal.</p> <p>15 Q. And that was not a deal that the UFC had</p> <p>16 struck with Electronic Arts; correct?</p> <p>17 A. Correct.</p> <p>18 Q. That was a deal -- who was that a deal</p> <p>19 between, do you know?</p> <p>20 A. I believe it was -- I don't know that it was</p> <p>21 any one organization, but that they were just taking</p> <p>22 fighters that were not UFC fighters.</p> <p>23 Q. And why was it that the -- and was it UFC's</p> <p>24 policy not to allow its fighters to enter into the EA</p> <p>25 deal?</p>	<p style="text-align: right;">285</p> <p>1 SILVA</p> <p>2 EA; is that right?</p> <p>3 A. Well, it was letting -- especially more was</p> <p>4 to let them know if they had not done a deal, it</p> <p>5 would be -- to come in the UFC and be under that</p> <p>6 video game contract. It's like you didn't want</p> <p>7 somebody who was coming in the UFC not knowing that</p> <p>8 it was a conflict.</p> <p>9 Q. I see. And who told you to tell the</p> <p>10 fighters not to sign EA deals if they want to be in</p> <p>11 the UFC?</p> <p>12 A. I'm sure it was somebody in legal, but I</p> <p>13 don't recall who.</p> <p>14 Q. Was it Epstein or Mersch?</p> <p>15 A. I don't recall.</p> <p>16 Q. Or Hendrick?</p> <p>17 A. I don't recall.</p> <p>18 Q. You don't recall. Okay.</p> <p>19 But you understood, as you -- it was your</p> <p>20 understanding that it was Zuffa's policy, as you</p> <p>21 expressed in the e-mail in 2009 to Mr. Alameddine,</p> <p>22 that fighters could not sign the EA deal if they ever</p> <p>23 want to be in the UFC; is that right?</p> <p>24 A. Yeah. I was under the impression it would</p> <p>25 cause a conflict.</p>

<p style="text-align: right;">286</p> <p>1 SILVA</p> <p>2 Q. All right. You can put that document aside.</p> <p>3 MR. CRAMER: Like to mark the next</p> <p>4 document as Silva 27.</p> <p>5 (Silva Deposition Exhibit 27 marked for</p> <p>6 identification.)</p> <p>7 Q. Silva 27 is a series of e-mails with the</p> <p>8 Bates range ZFL-2552141 through 2142. The e-mail at</p> <p>9 the top is from you to Mark Fischer and Sean Shelby,</p> <p>10 dated August 27, 2012.</p> <p>11 I would like to draw your attention first to</p> <p>12 the second page of the document. This is an e-mail</p> <p>13 from Mark Fischer to Mr. Silva and Shelby and cc'd to</p> <p>14 Marshall Zelaznik, Ryo Ishibashi, Dylan -- and Dylan</p> <p>15 Budd, and the subject is RUFF and One FC fighter</p> <p>16 contracts.</p> <p>17 What is RUFF?</p> <p>18 A. I don't think they exist, but they were a</p> <p>19 China-based MMA promotion.</p> <p>20 Q. They were trying to be an MMA promotion in</p> <p>21 or about August 2012; is that right?</p> <p>22 A. Sounds right.</p> <p>23 Q. Who is Mr. Fischer?</p> <p>24 A. Mark Fischer used to be head of our --</p> <p>25 (Interruption on PA system.)</p>	<p style="text-align: right;">288</p> <p>1 SILVA</p> <p>2 Q. At what time -- do you recall at what period</p> <p>3 he became the head of your Asian division?</p> <p>4 A. I don't. Yeah, I -- he not there for an</p> <p>5 extremely long time. So it would be somewhere in the</p> <p>6 vicinity of the date of this e-mail.</p> <p>7 Q. Okay. And RUFF and One FC were Asia-based</p> <p>8 MMA promotions, or they were trying to be MMA --</p> <p>9 A. Well, One FC still is.</p> <p>10 Q. Still is, right.</p> <p>11 And RUFF was trying to be?</p> <p>12 A. Yeah, it was one, but I don't -- I do not</p> <p>13 believe it still exists.</p> <p>14 Q. Okay. So Mr. Fischer, who was the head of</p> <p>15 the UFC's Asia division, in August 26 -- on August</p> <p>16 26th of 2012, writes to Mr. Silva and Shelby, and</p> <p>17 cc's some others, and says: "Hey guys, received a</p> <p>18 couple reports lately that these promotions are both</p> <p>19 trying to lock in fighters in this region to</p> <p>20 long-term contracts, given the competition for</p> <p>21 fighters (and they probably got wind or otherwise</p> <p>22 suspect UFC is moving toward local fight series as</p> <p>23 well)."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">287</p> <p>1 SILVA</p> <p>2 A. It's apparently a very dramatic version.</p> <p>3 Q. We did this just to increase the drama.</p> <p>4 A. Wow.</p> <p>5 MR. CRAMER: Why don't we go off the</p> <p>6 record.</p> <p>7 THE VIDEOGRAPHER: Off the record at</p> <p>8 2:22 p m.</p> <p>9 (Recess taken at 2:22 p m., proceedings</p> <p>10 resumed at 2:28 p m.)</p> <p>11 THE VIDEOGRAPHER: We're back on the</p> <p>12 record at 2:28.</p> <p>13 MR. CRAMER: So we went off the record</p> <p>14 because there was a musical interruption in</p> <p>15 the room, for the record, and now we're back</p> <p>16 on the record.</p> <p>17 Will the court reporter please remind me</p> <p>18 where we were, and read the last question and</p> <p>19 answer? Thank you.</p> <p>20 THE REPORTER: "Who is Mr. Fischer?"</p> <p>21 Answer: "Mark Fischer used to be head of</p> <p>22 our" --</p> <p>23 Q. Okay. So who is Mark -- Mr. Fischer?</p> <p>24 A. Mark Fischer was the head of our Asian</p> <p>25 division.</p>	<p style="text-align: right;">289</p> <p>1 SILVA</p> <p>2 Q. Do you know what he was referring to when he</p> <p>3 said that these promotions were trying to lock in</p> <p>4 fighters to long-term contracts?</p> <p>5 A. It was his opinion that in -- in the Asian</p> <p>6 market, that the local Asian promoters wanted to lock</p> <p>7 the -- all the fighters up to exclusive contracts.</p> <p>8 Q. To long-term exclusive contracts.</p> <p>9 And he says, just below that, the part where</p> <p>10 it references One FC --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- it says, "reportedly they now have</p> <p>13 'teams' of people running around Asia trying to lock</p> <p>14 up fighters to 3-year or 5-year contracts, to corner</p> <p>15 the market versus all comers (including us)."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And Mr. Fischer -- is it fair to say that</p> <p>19 Mr. Fischer assumed or was saying that three- or</p> <p>20 five-year contracts were long-term contracts?</p> <p>21 A. Yes.</p> <p>22 MR. ISAACSON: Objection to form.</p> <p>23 Q. Okay. And in what way -- I'm just trying to</p> <p>24 understand the theory here. How is it possible that</p> <p>25 by locking up local fighters to three- or five-year</p>

<p style="text-align: right;">290</p> <p>1 SILVA</p> <p>2 contracts that they could potentially corner the</p> <p>3 market versus other potential MMA promoters,</p> <p>4 including the UFC? What was his theory, if you</p> <p>5 understood it?</p> <p>6 MR. ISAACSON: Objection. Foundation.</p> <p>7 Calls for speculation.</p> <p>8 A. I feel that Mr. Fischer felt like Asia,</p> <p>9 which was a newer, younger market for MMA, that there</p> <p>10 was not but so much talent, and that the local</p> <p>11 promoters were trying to make that talent unavailable</p> <p>12 to anybody for many years.</p> <p>13 Q. And three to five years is a long time in a</p> <p>14 fighter's career; correct?</p> <p>15 MR. ISAACSON: Objection to form.</p> <p>16 A. Especially what was unusual about this was</p> <p>17 that almost nobody was established as any kind of</p> <p>18 star or long-term champion, that they were just</p> <p>19 signing kind of random guys to super long contracts.</p> <p>20 Not that it had a championship clause or anything</p> <p>21 like that, just anybody who looked any good at all to</p> <p>22 them, they were offering multiyear contracts.</p> <p>23 Q. And that -- because the talent pool there at</p> <p>24 that time was so shallow, that had the potential, or</p> <p>25 at least according to Mr. Fischer, of preventing</p>	<p style="text-align: right;">292</p> <p>1 SILVA</p> <p>2 I'm going to sign him up, and I would look at him,</p> <p>3 was like, I don't -- that's -- that's not something</p> <p>4 I'm concerned about.</p> <p>5 Q. But in your opinion in 2012, the Asian</p> <p>6 market was a relatively new -- new market?</p> <p>7 A. Well, in -- in a way, it -- parts of Asia</p> <p>8 were old, that you had Pride and K-1 were huge</p> <p>9 Japanese promotions, but because of a lot of issues</p> <p>10 they had with Yakuza involvement and -- and other</p> <p>11 issues, the popularity of MMA died out quite a bit in</p> <p>12 Japan, but there was other parts of Asia, like, say</p> <p>13 in China, where it was becoming kind of a newer</p> <p>14 thing.</p> <p>15 So Japan for a long time was considered a</p> <p>16 powerhouse in MMA but not so much other parts. Korea</p> <p>17 was newer. China was newer.</p> <p>18 Q. When you say "Yakuza involvement," Yakuza</p> <p>19 are Japanese mobsters, is that right, organized</p> <p>20 crime?</p> <p>21 A. Yeah. That was a scandal from back in the</p> <p>22 Pride days.</p> <p>23 Q. And is it fair to say that -- that the way</p> <p>24 you're describing it, MMA in Japan was kind of</p> <p>25 separate from MMA in China and separate from MMA in</p>
<p style="text-align: right;">291</p> <p>1 SILVA</p> <p>2 others from breaking into that market? Is that what</p> <p>3 he was thinking?</p> <p>4 A. That was his opinion.</p> <p>5 MR. ISAACSON: Objection to form.</p> <p>6 Q. And then he says: "So, it's probably</p> <p>7 incumbent on us to put the word out to all our</p> <p>8 contacts in Asia that we are also considering our own</p> <p>9 USA -- UFC Asia series, which would be the conduit to</p> <p>10 the 'big UFC,' so fighters should be very careful</p> <p>11 signing away their careers to others at this point."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you interpret him to mean there</p> <p>15 when you got this e-mail?</p> <p>16 What -- what did you understand he was</p> <p>17 saying here about what the U -- he thinks the UFC</p> <p>18 should have done in response?</p> <p>19 MR. ISAACSON: Objection to form.</p> <p>20 A. Well, one, I didn't -- Mark Fischer did not</p> <p>21 come from MMA and I didn't think he understood it</p> <p>22 very well. And a lot of my correspondence is that I</p> <p>23 just disagreed with a lot of his assertions. It</p> <p>24 wasn't anything I was particularly worried about, but</p> <p>25 being new to -- he's like, oh, there's this guy and</p>	<p style="text-align: right;">293</p> <p>1 SILVA</p> <p>2 the Philippines?</p> <p>3 A. Most definitely.</p> <p>4 Q. In what way were they separate?</p> <p>5 A. They're different countries.</p> <p>6 Q. And why was that -- what -- what did the</p> <p>7 different countries mean in terms of their separate</p> <p>8 character in your -- in your opinion?</p> <p>9 A. I don't understand.</p> <p>10 Q. Well, what -- why did the oceans</p> <p>11 matter between Japan and China in terms of the MMA --</p> <p>12 A. Well --</p> <p>13 Q. -- business and those different countries?</p> <p>14 A. It's not just about MMA business. Just</p> <p>15 culturally they're very different and don't all get</p> <p>16 along with each other, have their own indigenous</p> <p>17 forms of martial arts. So, yeah, each one was a</p> <p>18 unique challenge.</p> <p>19 Somebody in Japan was not necessarily going</p> <p>20 to cheer on somebody from China. They're -- you</p> <p>21 know, it's almost like being in side-by-side states;</p> <p>22 you may be close, but that also can actually increase</p> <p>23 the rivalry. Like, there are local rivals. We -- we</p> <p>24 particularly want to beat them because they're so</p> <p>25 close to us.</p>

<p style="text-align: right;">294</p> <p>1 SILVA</p> <p>2 So, yeah, it -- success in any one of those</p> <p>3 was no guarantee in success for any of the others.</p> <p>4 Q. I see. And success, say, in China or the</p> <p>5 Philippines wouldn't necessarily translate into</p> <p>6 success in U.S.; is that right?</p> <p>7 A. Correct. Or Korea or anywhere else. It</p> <p>8 was -- it's all very specific.</p> <p>9 Q. So the business and the industry is very</p> <p>10 culture- or country-specific in your opinion?</p> <p>11 A. Yeah, it can be.</p> <p>12 Q. And there are different styles in different</p> <p>13 countries that are predominant and popular; correct?</p> <p>14 A. Yes. Each would have its own match. Like</p> <p>15 in Japan, karate or judo would be very big styles</p> <p>16 that originated there, where in China it was going to</p> <p>17 be kung fu.</p> <p>18 So, you know, the -- the lessons of -- of</p> <p>19 mixed martial arts through the years showed that</p> <p>20 while all styles have useful things, you're</p> <p>21 eventually going to be able -- have to be</p> <p>22 well-rounded and choose from all styles to be</p> <p>23 successful. That's a process that would take longer</p> <p>24 in a culture where you very much tie those traditions</p> <p>25 to your national identity, like China, where -- where</p>	<p style="text-align: right;">296</p> <p>1 SILVA</p> <p>2 Q. And eventually in the United States MMA</p> <p>3 developed into its -- its own unique sport; is that</p> <p>4 right?</p> <p>5 A. Correct.</p> <p>6 Q. And that sport had a development in the</p> <p>7 United States that may have been different than MMA</p> <p>8 as it developed in China or Japan; is that right?</p> <p>9 A. Well, the popularity of it -- I -- I would</p> <p>10 say -- in Japan, there was a show that I referred to</p> <p>11 earlier named -- called Shooto that was remarkably</p> <p>12 similar to UFC, but it was not as popular. Where</p> <p>13 Pride had more of -- of a spectacle element to it.</p> <p>14 And so that was a difference in -- in the way that it</p> <p>15 was run, and -- and for that culture, it worked</p> <p>16 better.</p> <p>17 K-1 was the same way. You might have a</p> <p>18 kickboxer fight a famous celebrity, where, you know,</p> <p>19 it would be -- the equivalent is like, we're going to</p> <p>20 have Jon Jones fight Hulk Hogan. And there would</p> <p>21 probably be a certain amount of people that would</p> <p>22 attract, but it's not what we do. But in Japan, for</p> <p>23 the bigger organizations, they would use that to sell</p> <p>24 tickets. They were looking to reach out besides --</p> <p>25 you know, to a hardcore fan base; where something</p>
<p style="text-align: right;">295</p> <p>1 SILVA</p> <p>2 kung fu is very important, and to feel the</p> <p>3 superiority of that style, to put it to the test and</p> <p>4 have it not do well could be a loss of face, so it</p> <p>5 was a touchy subject.</p> <p>6 Q. And in the United States, a mixed martial</p> <p>7 arts with the combination of all of the different</p> <p>8 disciplines, was far more developed than, say, in</p> <p>9 Japan or China or Korea?</p> <p>10 A. Well, it took years to -- at first, UFC was</p> <p>11 no different, in that's what the early UFCs were</p> <p>12 about. It wasn't even about who was in it. The</p> <p>13 posters said judo versus karate versus wrestling</p> <p>14 versus boxing.</p> <p>15 Q. Right.</p> <p>16 A. The styles had been so separate, even in</p> <p>17 America, that nobody knew, and that was the draw.</p> <p>18 What -- well, what would happen --</p> <p>19 Q. Right.</p> <p>20 A. -- if those things took each other on.</p> <p>21 But eventually you found out what happened,</p> <p>22 so that stopped being the draw, and all of a sudden</p> <p>23 it would be like, well, all right, it's not</p> <p>24 necessarily about the style, it's who -- which was</p> <p>25 something that Bruce Lee predicted in the 1960s.</p>	<p style="text-align: right;">297</p> <p>1 SILVA</p> <p>2 like Shooto, which was a Japanese -- and still</p> <p>3 exists, has been running longer -- actually I believe</p> <p>4 the first Shooto show predated the UFC.</p> <p>5 Q. But it's not as popular in Japan --</p> <p>6 A. Not as popular because they prefer generally</p> <p>7 a more spectacle-based. You got like a sumo wrestler</p> <p>8 or a -- a famous actor or somebody involved with it</p> <p>9 rather than just the -- the pure sport.</p> <p>10 Q. You've heard that Dana White publicly said</p> <p>11 that the reason why the UFC purchased Pride was to</p> <p>12 shut it down. Was that your understanding as to why</p> <p>13 the UFC purchased Pride?</p> <p>14 A. No.</p> <p>15 MR. ISAACSON: Objection, foundation.</p> <p>16 Q. Did you ever hear that he said that?</p> <p>17 A. Oh, I've heard him say that, but also that</p> <p>18 was not Lorenzo's opinion about it.</p> <p>19 Q. Did you ever see documents internal to the</p> <p>20 UFC where it was expressed that the main reason for</p> <p>21 the purchase of Pride was to shut it down as a</p> <p>22 competitor?</p> <p>23 A. Absolutely not. I was --</p> <p>24 Q. You haven't seen that?</p> <p>25 A. I was actually very concerned that the plan</p>

<p style="text-align: right;">298</p> <p>1 SILVA</p> <p>2 was for me to have to go to Japan quite often and</p> <p>3 keep Pride running --</p> <p>4 Q. But it -- but that didn't --</p> <p>5 A. -- and I very much did not want to go to</p> <p>6 Japan.</p> <p>7 Q. But that didn't turn out to be the case?</p> <p>8 A. That did not end up happening.</p> <p>9 Q. What ended up happening?</p> <p>10 A. Eventually we'd fold Pride into the UFC.</p> <p>11 Q. And Pride was shut down?</p> <p>12 A. Yes.</p> <p>13 Q. Were you involved at all in the plans for</p> <p>14 the purchase of Pride?</p> <p>15 A. Not in any of the mechanics of it other than</p> <p>16 being made aware: This is what we're doing and this</p> <p>17 is what you may have to do.</p> <p>18 Q. Were you aware that Dana White said</p> <p>19 publicly: "Pride is dead, dummy, we killed it"?</p> <p>20 MR. ISAACSON: Objection. Foundation.</p> <p>21 A. I know that Dana is extremely proud of the</p> <p>22 things that he's accomplished with the UFC, so he's</p> <p>23 very competitive. And, yeah, he had that attitude of</p> <p>24 like let's take on the world. But as I said,</p> <p>25 Lorenzo's philosophy was very different.</p>	<p style="text-align: right;">300</p> <p>1 SILVA</p> <p>2 RUFF going into a tournament without locking up all</p> <p>3 fighters throughout also looks like they don't know</p> <p>4 what they're doing."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know what he meant by that, "RUFF</p> <p>8 going into tournament without locking up all fighters</p> <p>9 throughout also looks like they don't know what</p> <p>10 they're doing"?</p> <p>11 A. Yes. They announced a multi-show tournament</p> <p>12 but were not signing multiple-fight contracts with</p> <p>13 the fighters, which doesn't make sense, because they</p> <p>14 have no obligation to finish the tournament.</p> <p>15 If you are going to publicly announce a</p> <p>16 tournament, you should have the fighters under</p> <p>17 contract long enough to actually complete the</p> <p>18 tournament.</p> <p>19 Q. That makes sense.</p> <p>20 So Mr. Shelby then says in the last</p> <p>21 paragraph there: "If we're going to be doing a</p> <p>22 series with guys not necessarily ready for the UFC</p> <p>23 and lower payouts, there are plenty of fighters out</p> <p>24 there."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">299</p> <p>1 SILVA</p> <p>2 Q. But you -- you have -- you are aware that</p> <p>3 Mr. White did say, "Pride is dead, dummy, we killed</p> <p>4 it"?</p> <p>5 MR. ISAACSON: Misstating the record.</p> <p>6 Objection.</p> <p>7 Q. Something to that -- words to that effect,</p> <p>8 you're aware he did say that publicly; correct?</p> <p>9 MR. ISAACSON: Same objection.</p> <p>10 A. Yes.</p> <p>11 Q. Did you have a conversation with him after</p> <p>12 he said that?</p> <p>13 A. No.</p> <p>14 Q. Did he ever tell you why he said that?</p> <p>15 A. No.</p> <p>16 Q. If you turn to the first page of this</p> <p>17 document there's an e-mail from Mr. Shelby to you and</p> <p>18 Mr. Fischer responding to Mr. Fischer's e-mail. This</p> <p>19 is dated August 27, 2012. And he says: "Fighters</p> <p>20 will go where the immediate money is. One FC seems</p> <p>21 willing to pay way above market value for any name</p> <p>22 guys, just as Strikeforce, Dream, Affliction, Pride,</p> <p>23 Elite XC, Bodog, et cetera, did. They can also sign</p> <p>24 up everyone who has a pulse, but they still have a</p> <p>25 limited number of events to honor all the contracts.</p>	<p style="text-align: right;">301</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. He says: "For example, Shooto alone will</p> <p>4 put on 20 events this year with only Japanese</p> <p>5 talent."</p> <p>6 A. Yes.</p> <p>7 Q. And would you -- do -- do you understand</p> <p>8 what he was implying here?</p> <p>9 What did he mean that "if we're going to be</p> <p>10 doing a series with guys not necessarily ready for</p> <p>11 the UFC"?</p> <p>12 A. That if there was -- the idea was played</p> <p>13 around with of doing more localized shows, that they</p> <p>14 would not be the regular UFC, with something that was</p> <p>15 meant to grow local talent, where it would be unfair,</p> <p>16 if you have a country that does not have a deep MMA</p> <p>17 pool, to throw them in against more experienced, more</p> <p>18 talented guys, and just get them crushed would help</p> <p>19 nobody, but that you could have a, you know,</p> <p>20 satellite show and let them compete amongst</p> <p>21 themselves, and, you know, give them the chance to</p> <p>22 have that experience and grow the talent, and then</p> <p>23 eventually get to UFC.</p> <p>24 Q. And so there potentially were a number of</p> <p>25 guys -- strike that.</p>

<p style="text-align: right;">302</p> <p>1 SILVA</p> <p>2 MR. CRAMER: All right. I'd like to mark</p> <p>3 as the next document Silva Exhibit 28. Thank</p> <p>4 you.</p> <p>5 (Silva Deposition Exhibit 28 marked for</p> <p>6 identification.)</p> <p>7 Q. Silva 28 is a one-page e-mail with the Bates</p> <p>8 number ZFL-0827903. It's actually two e-mails. The</p> <p>9 one at the top is from Lorenzo Fertitta to Joe Silva</p> <p>10 and cc'd to White and Epstein, dated March 20, 2014.</p> <p>11 And I'd like to draw your attention</p> <p>12 particularly -- first of all, this relates to Rogerio</p> <p>13 Nogueira?</p> <p>14 A. Nogueira.</p> <p>15 Q. Nogueira, okay. And he is also known as</p> <p>16 Little Nog; is that right?</p> <p>17 A. Correct.</p> <p>18 Q. Is he a big name fighter?</p> <p>19 A. Not as big as his brother, but he is a</p> <p>20 well-known fighter.</p> <p>21 Q. Okay. And then on March 19, 2014, am I</p> <p>22 right that you sent an e-mail to White and Fertitta</p> <p>23 and Epstein about Little Nog?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And this e-mail has a list of 1 to 15</p>	<p style="text-align: right;">304</p> <p>1 SILVA</p> <p>2 Q. Do you recall that incident?</p> <p>3 A. I don't recall it, but yeah, I --</p> <p>4 Q. It happened.</p> <p>5 A. -- it doesn't surprise me.</p> <p>6 Q. And, "He says he wants someone easier after</p> <p>7 his layoff. He was jumping up and down to fight Rich</p> <p>8 Franklin."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So he didn't want to fight Cormier, he</p> <p>12 wanted to fight Rich Franklin, who he thought would</p> <p>13 be easier to fight?</p> <p>14 A. Well, Rich Franklin wasn't even in his</p> <p>15 weight class and was way past his prime, so it was</p> <p>16 kind of a nonsensical. It's like, I'm sure you would</p> <p>17 like to fight that fight.</p> <p>18 Q. Okay. And then you say: "Would love to cut</p> <p>19 him, but he would just end up fighting Rampage in</p> <p>20 Bellator."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. What did you mean by that?</p> <p>24 A. That I was definitely frustrated that --</p> <p>25 you're trying -- like, if you have somebody like</p>
<p style="text-align: right;">303</p> <p>1 SILVA</p> <p>2 with various UFC fighters' names and notes for each;</p> <p>3 is that right?</p> <p>4 A. Yes.</p> <p>5 Q. What is this list?</p> <p>6 A. Well, sometimes, you know, they'll ask --</p> <p>7 it's like, well, who's going to fight who. And I'll</p> <p>8 say, well, I -- I think this, and like, what else is</p> <p>9 out there, what other things. So it's like I like to</p> <p>10 head that off by going, here's what everybody's</p> <p>11 doing. All -- if you're looking for a higher --</p> <p>12 because they normally would leave the lower parts of</p> <p>13 the card just to my discretion.</p> <p>14 When it comes to main event, co-main event,</p> <p>15 big fights on the card, they -- they're going to have</p> <p>16 say in it, so I like to present them with options.</p> <p>17 And rather than each time they go, wait,</p> <p>18 what's this guy doing, it's like, I'm going to take</p> <p>19 care of it all at once, I'm going to go through it</p> <p>20 and sketch out what everybody in the top 15 is doing.</p> <p>21 Q. Okay. In the first sentence of your e-mail</p> <p>22 that we're just talking about, you say: "Nogueira</p> <p>23 has flat out refused to fight Daniel Cormier."</p> <p>24 Do you see that?</p> <p>25 A. Yes. Yes.</p>	<p style="text-align: right;">305</p> <p>1 SILVA</p> <p>2 Cormier who wants to fight, and you have to get him a</p> <p>3 legitimate guy and you have one, and it's like, oh,</p> <p>4 you want a fight, perfect, I have a fight for you,</p> <p>5 Cormier. And it's just like, no, and it's not 'cause</p> <p>6 I'm injured, it's not anything, I just don't want to</p> <p>7 fight that guy. It's like, well, that's really</p> <p>8 unfair to Cormier and -- and you're putting me in a</p> <p>9 bad position here. I -- I brought you in to fight,</p> <p>10 so, yeah.</p> <p>11 It's like, if he won't fight the -- the guys</p> <p>12 that we need him to fight, why are we holding on to</p> <p>13 him?</p> <p>14 I could see -- other matches you can do, I</p> <p>15 can see what other people could do with him. But</p> <p>16 there's also no guarantee. He had -- another problem</p> <p>17 with Little Nog is that he was constantly injured.</p> <p>18 So it would be that, I get paid a lot of</p> <p>19 money, because he had a very good contract, so you're</p> <p>20 like, well, you're going to fight top guys, so you</p> <p>21 deserve that top contract, but then he'd be injured</p> <p>22 and be out for a while and go, I can't fight a top</p> <p>23 guy, I've not fought for awhile, and it would just</p> <p>24 get frustrating.</p> <p>25 Q. Okay. So you thought it would be pretty</p>

<p style="text-align: right;">306</p> <p>1 SILVA</p> <p>2 good to cut the guy because he had a top contract,</p> <p>3 wasn't willing to fight the people you wanted him to</p> <p>4 fight. But you said you'd love to cut him, but he</p> <p>5 would just end up fighting Rampage in Bellator. Why</p> <p>6 did you say that?</p> <p>7 A. Because I thought that was a possibility</p> <p>8 that would happen. It would just be handing them</p> <p>9 something easy.</p> <p>10 Q. You -- you would be handing Bellator a -- a</p> <p>11 top name to fight in Bellator; correct?</p> <p>12 A. Credible name. Not a top name.</p> <p>13 Q. A credible name.</p> <p>14 And so you'd rather hold on to him even</p> <p>15 though you'd love to cut him, so that Bellator didn't</p> <p>16 have him --</p> <p>17 A. Well, it wasn't -- no, it's not that I -- I</p> <p>18 said I wanted to cut him, I just said, hey, I'm</p> <p>19 making my bosses who are going to make the</p> <p>20 decision -- I'm giving them all the options. Here's</p> <p>21 all the ups, here's all the downs, you decide, and</p> <p>22 then they said, "Don't cut him."</p> <p>23 Q. Right. As long as he was under contract</p> <p>24 with Zuffa, the exclusivity term in his Zuffa</p> <p>25 contract would bar him from fighting for Bellator;</p>	<p style="text-align: right;">308</p> <p>1 SILVA</p> <p>2 A. Right.</p> <p>3 MR. ISAACSON: Objection to form.</p> <p>4 Q. Right.</p> <p>5 A. But I also had no say in it. All I could do</p> <p>6 is present the option, and they decided.</p> <p>7 Q. And based upon your recommendation that if</p> <p>8 you let him go, he would go fight Rampage in</p> <p>9 Bellator, they decided to keep him?</p> <p>10 A. No.</p> <p>11 Q. They let him go?</p> <p>12 A. You don't know that. They just said, "Don't</p> <p>13 cut him." They also like Big Nog. They're not</p> <p>14 saying why. He just said, "Don't cut him."</p> <p>15 Q. All right. Said, "Don't cut him." That's</p> <p>16 what it says at the top. "That's fine. Don't cut</p> <p>17 nog."</p> <p>18 A. But they have a good relationship with his</p> <p>19 brother, there's people that know him personally, so</p> <p>20 what the reason was for it -- it could very much be</p> <p>21 like, I'd just love to cut this guy, he's a pain in</p> <p>22 the ass, and not mention the Bellator, and then still</p> <p>23 say, "Don't cut him."</p> <p>24 Q. But you thought in -- as part of giving</p> <p>25 advice to Dana White and Lawrence Epstein and Lorenzo</p>
<p style="text-align: right;">307</p> <p>1 SILVA</p> <p>2 right?</p> <p>3 A. Correct.</p> <p>4 Q. And would the fact that he refused to take a</p> <p>5 fight give you grounds to cut him under the terms of</p> <p>6 his contract?</p> <p>7 A. That was my understanding.</p> <p>8 Q. And if Little Nog fought Rampage -- Rampage</p> <p>9 was a former UFC champion; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. And if he fought Rampage in Bellator, that</p> <p>12 would be a fight that could potentially attract a</p> <p>13 large number of viewers; correct?</p> <p>14 A. Better than some of the other options they</p> <p>15 had.</p> <p>16 Q. Right. So that would improve Bellator's</p> <p>17 ability to put on a successful event; correct?</p> <p>18 A. Right. It's not my job to help Bellator.</p> <p>19 Q. It is not.</p> <p>20 And you, in fact, were -- your job was to</p> <p>21 help the UFC; right?</p> <p>22 A. Correct.</p> <p>23 Q. And one of the ways you can help the UFC is</p> <p>24 to keep a guy under contract, because if you let him</p> <p>25 go, he would help Bellator; right?</p>	<p style="text-align: right;">309</p> <p>1 SILVA</p> <p>2 Fertitta about reasons for or against cutting Nog,</p> <p>3 one of the reasons against cutting Nog was that if he</p> <p>4 left, he would go fight Rampage and Bellator; right?</p> <p>5 A. That is a possibility I wanted to bring to</p> <p>6 their attention.</p> <p>7 Q. Would you agree that one factor that</p> <p>8 attracts fighters to a promotion is the opportunity</p> <p>9 for lucrative match-ups?</p> <p>10 A. Could you rephrase?</p> <p>11 Q. Yeah. One -- one reason why a fighter wants</p> <p>12 to go work for a particular MMA promotion versus</p> <p>13 another is that one promotion might have a better</p> <p>14 opportunity for match-ups that could be lucrative for</p> <p>15 them, advance their career?</p> <p>16 A. I don't think it's not necessarily about the</p> <p>17 match-ups as much as simply they think which one will</p> <p>18 pay me more, period. I think they know quite often</p> <p>19 the match-ups are not only out of their control,</p> <p>20 they're out of our control.</p> <p>21 Q. Well, if you go work for a promotion that</p> <p>22 doesn't have anybody of your caliber, then you're not</p> <p>23 going to be able to test yourself.</p> <p>24 A. No. Even if you could test yourself, it</p> <p>25 doesn't mean that that promotion will pay you to test</p>

<p style="text-align: right;">310</p> <p>1 SILVA</p> <p>2 yourself.</p> <p>3 Q. Right. That's true. But it would not</p> <p>4 advance a fighter's career to go work for a promotion</p> <p>5 that doesn't have a stable of fighters under contract</p> <p>6 that are on -- of the same caliber of a fighter that</p> <p>7 wants to join that promotion; correct?</p> <p>8 MR. ISAACSON: Objection to form.</p> <p>9 A. No, that's not correct. As I stated in a</p> <p>10 lot of those e-mails we already looked at, my</p> <p>11 criteria to them was simply fight guys with a winning</p> <p>12 record to elevate yourself. There's no promotion out</p> <p>13 there who doesn't have people who have winning</p> <p>14 records in them.</p> <p>15 Q. Right. But there's winning records and</p> <p>16 there's winning records. From your perspective,</p> <p>17 someone with a winning record fighting a bunch of</p> <p>18 no-names is different than someone with a winning</p> <p>19 record fighting former UFC talent; right?</p> <p>20 A. Certainly.</p> <p>21 MR. ISAACSON: Objection. Argumentative.</p> <p>22 MR. CRAMER: I would like to mark the next</p> <p>23 document as Silva Exhibit 29.</p> <p>24 (Silva Deposition Exhibit 29 marked for</p> <p>25 identification.)</p>	<p style="text-align: right;">312</p> <p>1 SILVA</p> <p>2 was; yes? Is that right?</p> <p>3 A. Seems right.</p> <p>4 Q. Okay. And you send an e-mail to Ms. Long</p> <p>5 saying -- regarding Strikeforce on July 31, you</p> <p>6 list -- you identify four guys. You say: "Overeem,</p> <p>7 Cung Le, Robbie Lawler, Nick Diaz."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Who are you identifying there?</p> <p>11 Well, who -- this is a list of people who --</p> <p>12 well, who is this a list of?</p> <p>13 A. She's asking for a list of Strikeforce</p> <p>14 fighters with comps and fights left. So of guys in</p> <p>15 my weight class, those are the guys that I sent, that</p> <p>16 yes, they still have Strikeforce-related contracts.</p> <p>17 Q. Okay. One of those was Cung Le; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. He's one of the plaintiffs in this case, do</p> <p>21 you know that?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Have you spoken to Mr. Le about this</p> <p>24 case?</p> <p>25 A. No.</p>
<p style="text-align: right;">311</p> <p>1 SILVA</p> <p>2 Q. All right. This is a series of e-mails with</p> <p>3 the Bates range ZFL-2497582 through 7584.</p> <p>4 If you look at the bottom of the page, Long</p> <p>5 writes to you and Sean Shelby on July 31, 2014:</p> <p>6 "Lorenzo has asked me to prepare a list of all</p> <p>7 Strikeforce fighters with comp and fights left."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall this?</p> <p>11 A. No.</p> <p>12 Q. Okay. You don't doubt that --</p> <p>13 A. No.</p> <p>14 Q. -- you received this e-mail?</p> <p>15 A. I do not doubt.</p> <p>16 Q. Okay. And then on the next page, Long says:</p> <p>17 "Can you look at and tell me if I am missing anyone,</p> <p>18 or if I need to remove anyone, before I start pulling</p> <p>19 what their comp is and how many fights left?"</p> <p>20 Do you see that?</p> <p>21 A. Oh, yes. Yeah.</p> <p>22 Q. All right. So this e-mail from Ms. Long</p> <p>23 attaches a list of Strikeforce fighters, and she was</p> <p>24 asked to figure out how many fights were left in</p> <p>25 their contract and what their compensation structure</p>	<p style="text-align: right;">313</p> <p>1 SILVA</p> <p>2 Q. Have you spoken to any fighters about this</p> <p>3 case?</p> <p>4 A. No.</p> <p>5 Q. All right. In your e-mail a little bit up</p> <p>6 the page to Ms. Long, at 8:46 p -- a m. on July 31st,</p> <p>7 you say: "Not 100 percent sure why Lorenzo wants</p> <p>8 this list but my guess is he wants to make sure that</p> <p>9 fighters with past Strikeforce ties are locked up in</p> <p>10 case Coker tries to recruit them now that he is at</p> <p>11 Bellator."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know what he was referring to</p> <p>15 there -- or what you were referring to?</p> <p>16 A. Well, once again, I was making a guess. It</p> <p>17 says I was not a hundred percent sure. Sometimes we</p> <p>18 just get these requests for things, but without any</p> <p>19 detail as why. So you're just trying to figure out.</p> <p>20 Sometimes it makes you -- will help you make a better</p> <p>21 list if you can ascertain, wait, exactly what do they</p> <p>22 need this for, but we were not given a reason.</p> <p>23 Q. Okay.</p> <p>24 A. So I'm going, well, I'm guessing this is</p> <p>25 why.</p>

<p style="text-align: right;">314</p> <p>1 SILVA</p> <p>2 Q. So you were guessing that one of the things</p> <p>3 that Mr. -- that Lorenzo Fertitta wanted was a list</p> <p>4 of fighters that had been at Strikeforce who were</p> <p>5 under contract in case Bellator's new CEO, Coker,</p> <p>6 tried to recruit them over?</p> <p>7 A. Yes.</p> <p>8 Q. Right? Because Coker was the head of</p> <p>9 Strike --</p> <p>10 MR. ISAACSON: Objection. Calls for</p> <p>11 guessing.</p> <p>12 Q. Coker was at Strikeforce; right?</p> <p>13 A. He was.</p> <p>14 Q. And UFC bought Strikeforce; right?</p> <p>15 A. We did.</p> <p>16 Q. Then Coker went to Bellator; right?</p> <p>17 A. Correct.</p> <p>18 Q. All right. And so you're -- you're thinking</p> <p>19 that Lorenzo might be concerned that Coker might try</p> <p>20 to recruit his former Strikeforce fighters; right?</p> <p>21 MR. ISAACSON: Objection. Speculation.</p> <p>22 Calls for guessing.</p> <p>23 A. And I was guessing. I say right in it that</p> <p>24 I'm not a hundred percent sure why.</p> <p>25 Q. Right. But it certainly made sense to you,</p>	<p style="text-align: right;">316</p> <p>1 SILVA</p> <p>2 contract; right?</p> <p>3 A. Correct.</p> <p>4 Q. And if they're under contract with</p> <p>5 Strikeforce or the UFC, they couldn't go to Bellator;</p> <p>6 is that right?</p> <p>7 A. Correct.</p> <p>8 Q. All right. You can put that document aside.</p> <p>9 And one reason that Zuffa purchased</p> <p>10 Strikeforce was to obtain its fighter contracts,</p> <p>11 Strikeforce's fighter contracts; right?</p> <p>12 MR. ISAACSON: Objection.</p> <p>13 Q. You can answer.</p> <p>14 A. Yes.</p> <p>15 Q. And at the time of the Strikeforce purchase,</p> <p>16 Strikeforce was one of the UFC's most significant MMA</p> <p>17 competitors; right?</p> <p>18 A. Yes.</p> <p>19 Q. And it had talent and weight classes that</p> <p>20 the UFC did not have; correct?</p> <p>21 A. I believe -- well, they had the female</p> <p>22 divisions which we did not have.</p> <p>23 Q. And if Strikeforce fighters went to Bellator</p> <p>24 instead of the UFC, it would have improved Bellator's</p> <p>25 ability to compete with the UFC; correct?</p>
<p style="text-align: right;">315</p> <p>1 SILVA</p> <p>2 enough to write it down, that one of -- that one</p> <p>3 rational reason for this assignment --</p> <p>4 A. That could be incorrect, though.</p> <p>5 Q. Right, it could be incorrect, it could be</p> <p>6 correct.</p> <p>7 But in your mind, one rational reason for</p> <p>8 this list is that Mr. Fertitta was concerned</p> <p>9 potentially that Mr. Coker might try to recruit</p> <p>10 former Strikeforce fighters over to Bellator; right?</p> <p>11 MR. ISAACSON: Objection. Calls for</p> <p>12 speculation and guessing.</p> <p>13 Q. That's what you were thinking; right?</p> <p>14 A. That's what I guessed could be.</p> <p>15 Q. All right. Did -- did you ever find out --</p> <p>16 A. And I was also hoping and saying that maybe</p> <p>17 Tracy had more knowledge as to why, and would then</p> <p>18 give it, but I didn't get any further clarification,</p> <p>19 not that I see here.</p> <p>20 Q. Do you recall subsequently getting</p> <p>21 clarification about why this request was made?</p> <p>22 A. I do not remember.</p> <p>23 Q. And when you said, "make sure that fighters</p> <p>24 with past Strikeforce ties are locked up in case</p> <p>25 Coker tries to recruit them," you meant under</p>	<p style="text-align: right;">317</p> <p>1 SILVA</p> <p>2 A. Some of the fighters.</p> <p>3 Q. So if some of the fighters went from</p> <p>4 Strikeforce to Bellator instead of the UFC, that</p> <p>5 would have improved Bellator's ability to compete</p> <p>6 with the UFC; correct?</p> <p>7 A. They would have improved any company that</p> <p>8 they went to.</p> <p>9 MR. CRAMER: All right. Like to mark the</p> <p>10 next document as Silva Exhibit 30.</p> <p>11 (Silva Deposition Exhibit 30 marked for</p> <p>12 identification.)</p> <p>13 Q. Silva 30 is a one-page e-mail with the Bates</p> <p>14 number ZFL-2536695. It's dated August 2nd, 2013,</p> <p>15 from Mr. Mersch -- I'm sorry, from Ms. Long to</p> <p>16 Mr. Silva, cc'd to Mr. Mersch.</p> <p>17 And Ms. Long says to you, Mr. Silva:</p> <p>18 "Lorenzo wants Hector tied up in case he looks good</p> <p>19 at UFC 166. He wants me to prepare a 3-fight</p> <p>20 Agreement: 100, 105, 110 (no win bonus) which will</p> <p>21 supercede his current Agreement, Signing Bonus,</p> <p>22 Endorsement Agreement. Lawrence wanted me to run it</p> <p>23 by you."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">318</p> <p>1 SILVA</p> <p>2 Q. Did you receive this e-mail from Ms. Long?</p> <p>3 A. Yes.</p> <p>4 Q. What did -- what did she mean that Lorenzo</p> <p>5 wants Hector tied up in case he looks good at</p> <p>6 UFC 166?</p> <p>7 A. My recollection is that Hector was just --</p> <p>8 there was some kind of strange circumstance. He was</p> <p>9 going to fight one fight, and it just -- it had not</p> <p>10 worked out for him, he did not do well in the UFC,</p> <p>11 and I believe we were going to release him, and he</p> <p>12 just asked, it was like, let me just fight one more</p> <p>13 fight for you, just one more fight. And we were,</p> <p>14 okay, we'll let you fight one more fight. And then</p> <p>15 as Lorenzo considered it, it's like, you know what, I</p> <p>16 want him for more than one fight, let's do this</p> <p>17 thing. So that's what that was about.</p> <p>18 Q. I see. So he is on the last fight of a</p> <p>19 contract, he says I only want to fight one more</p> <p>20 fight and --</p> <p>21 A. It wasn't that he only wanted to fight one</p> <p>22 more fight, it was that he was going to be released</p> <p>23 from his contract for poor performance. He asked</p> <p>24 please give me one more chance. We're like, all</p> <p>25 right, we'll -- we'll let you do the last chance,</p>	<p style="text-align: right;">320</p> <p>1 SILVA</p> <p>2 Q. -- the contract?</p> <p>3 A. That is incorrect. It was not contingent on</p> <p>4 that. They're like, look, we're willing to fight one</p> <p>5 more fight just to show that we're good. Lorenzo</p> <p>6 thought about it and go, no, you know, we're good,</p> <p>7 let's just do a regular deal; not we won't give you</p> <p>8 that last fight if you don't sign a new deal. I</p> <p>9 don't believe that that was contingent on that.</p> <p>10 Q. So your opinion is that Lorenzo would have</p> <p>11 let Hector fight that last fight --</p> <p>12 A. Yeah.</p> <p>13 Q. -- without Hector signing a long-term --</p> <p>14 A. It was already announced. You could look in</p> <p>15 the context of this e-mail. He was -- already had a</p> <p>16 fight at 1 -- UFC 166. That fight was happening, and</p> <p>17 then he wanted to add on after that fight was already</p> <p>18 happening.</p> <p>19 Q. Right. But then Lorenzo says he wants</p> <p>20 Hector tied up in case he looks good at UFC 166;</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. So if -- the fight hadn't happened yet;</p> <p>24 correct?</p> <p>25 A. Right, but it was already announced. It was</p>
<p style="text-align: right;">319</p> <p>1 SILVA</p> <p>2 and -- but that's all -- all it was to us was like,</p> <p>3 he'll just fight one more fight and we're done. And</p> <p>4 then upon thinking about it, Lorenzo was like, no,</p> <p>5 let's not just do it one more, let's do a</p> <p>6 multi-fight.</p> <p>7 Q. So he's gotta -- you tell him basically,</p> <p>8 we'll give you one more fight. Other -- we -- the</p> <p>9 choices are we'll cut you or give you one more fight,</p> <p>10 right, those were the choices at that time?</p> <p>11 A. Well, he didn't -- it wasn't a -- my choice</p> <p>12 or his choice?</p> <p>13 Q. The UFC was presented with a choice. You</p> <p>14 could either cut him, as you were thinking about --</p> <p>15 A. Yes.</p> <p>16 Q. -- or you could accede to his request and</p> <p>17 give him one more fight?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. And you agreed to give him one more</p> <p>20 fight; right?</p> <p>21 A. Correct.</p> <p>22 Q. All right. And what -- what Lorenzo was</p> <p>23 saying is, the price to Hector of your agreement to</p> <p>24 give him that one more fight was he's got to sign --</p> <p>25 A. No. That is --</p>	<p style="text-align: right;">321</p> <p>1 SILVA</p> <p>2 already going to. He had a fight at 166. I had to</p> <p>3 have an opponent locked in and opponent agreed to, to</p> <p>4 even state this.</p> <p>5 Q. Right. But at some point Mr. --</p> <p>6 Mr. Lombard, before he fought at 166, he was</p> <p>7 presented with a three-fight agreement; correct?</p> <p>8 A. He was asked. It's not like, here, take</p> <p>9 this. It's, hey, would you like to just go ahead and</p> <p>10 do a new deal. And they said yes.</p> <p>11 Q. He was presented -- it's fair to say that</p> <p>12 Mr. Lombard, before he fought, was prevented with a</p> <p>13 new deal -- presented with a new deal; correct?</p> <p>14 A. That's my understanding. I didn't do that</p> <p>15 deal.</p> <p>16 Q. You didn't do that?</p> <p>17 A. This was Lorenzo's.</p> <p>18 Q. Somebody came to Mr. Lombard and said</p> <p>19 before --</p> <p>20 A. To his management.</p> <p>21 Q. -- to his management -- before 166, because</p> <p>22 he might look good in that fight, and said, here's a</p> <p>23 three-fight agreement, and this agreement would</p> <p>24 supercede your existing agreement and give you three</p> <p>25 more fights. And he was given the option to sign or</p>

<p style="text-align: right;">326</p> <p>1 SILVA</p> <p>2 Zuffa's acquisition of Strikeforce?</p> <p>3 A. I believe so.</p> <p>4 Q. I think that was in March.</p> <p>5 Was Overeem a champion with Strikeforce?</p> <p>6 A. I don't think he was actually a Strikeforce</p> <p>7 world champion, but I don't recall.</p> <p>8 Q. Okay. Well, let me just --</p> <p>9 A. But he was a -- he was a name heavyweight.</p> <p>10 He was a top heavyweight.</p> <p>11 Q. Well, let me -- let me draw your attention</p> <p>12 to something you said in an e-mail in the middle of</p> <p>13 the page. You said to Mr. Overeem on July 15, 2011,</p> <p>14 the fourth line down: "We can't" -- well, here --</p> <p>15 let me -- let's get the context here.</p> <p>16 You say: "As I explained to you, the Nick</p> <p>17 Diaz situation is completely different and that is</p> <p>18 why he is the only guy who we were able to bring</p> <p>19 over. He was under a multi-fight deal but had a</p> <p>20 provision where he could box which we really didn't</p> <p>21 want so they had to give him a whole new deal."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. What's that referring to?</p> <p>25 A. That, with Showtime, the network had</p>	<p style="text-align: right;">328</p> <p>1 SILVA</p> <p>2 people from Strikeforce to the UFC, that -- that</p> <p>3 Strikeforce would then be devalued?</p> <p>4 A. Or that Showtime would feel -- we had a</p> <p>5 contractual obligation to them, and say we have</p> <p>6 champions and we will continue to be able to show</p> <p>7 these champions on our network, we feel we've</p> <p>8 invested network time in these guys, so don't do</p> <p>9 that.</p> <p>10 Q. And -- and in -- in your view, if you --</p> <p>11 this is you talking, right, we can't take all of</p> <p>12 their champions away and devalue the company? That's</p> <p>13 what you were saying?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And you were saying that UFC can't</p> <p>16 take all of Strikeforce's champions away because that</p> <p>17 would devalue Strikeforce and potentially abrogate</p> <p>18 whatever agreements you had with Showtime?</p> <p>19 A. Correct. It would affect the Showtime deal.</p> <p>20 Q. And then if you turn to the next page or the</p> <p>21 third page of the e-mail, there is another -- on --</p> <p>22 on page 3 of the e-mail there's another part where</p> <p>23 you say: "We need to keep him in Strikeforce so as</p> <p>24 not to devalue the brand."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">327</p> <p>1 SILVA</p> <p>2 contractual things with Strikeforce where we could</p> <p>3 not just do whatever we wanted to with it. They'd</p> <p>4 say you're breaching the contract that we have if you</p> <p>5 take away this champion, if you do this, do that. So</p> <p>6 we had to give in to a lot of Strike -- to Showtime's</p> <p>7 demands. It wasn't all under our control.</p> <p>8 Nick Diaz, in his Strikeforce contract, had</p> <p>9 a provision where he could box professionally. We</p> <p>10 did not want a fighter fighting another contact sport</p> <p>11 outside of UFC where they could take damage, be</p> <p>12 unavailable for UFC or Strikeforce fights, but it was</p> <p>13 in his contract, so that gave him negotiating -- it's</p> <p>14 like, well, if you want me to take that out, then I</p> <p>15 need to go to UFC and not be in there.</p> <p>16 So -- but we still had to bring it to</p> <p>17 Showtime and go, look, this is the situation. And</p> <p>18 Showtime said, "Okay, we'll make that exception."</p> <p>19 Q. Okay. And then you say: "We can't just</p> <p>20 take all of their champions away and devalue the</p> <p>21 company."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And am I right that what you were saying is</p> <p>25 if you bring over all of the champions and the top</p>	<p style="text-align: right;">329</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. "We cannot bring him over the UFC at this</p> <p>4 time."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. What did you mean by that?</p> <p>8 A. That's exactly what I said in the first</p> <p>9 page.</p> <p>10 Q. Okay.</p> <p>11 A. That we had a deal with -- the deal that was</p> <p>12 made that we bought, that Showtime was entered into</p> <p>13 with Strikeforce, prevented us from just taking</p> <p>14 whoever we wanted out of the organization.</p> <p>15 Q. And -- and if you took out Strikeforce's</p> <p>16 champions, it would devalue the -- the show that</p> <p>17 Showtime would be able to put on; is that right?</p> <p>18 A. They felt it would.</p> <p>19 Q. Did you agree with them? Is that fair</p> <p>20 judgment, that if Strikeforce's champions were all</p> <p>21 moved over to the UFC --</p> <p>22 A. Well, I don't agree with all their things.</p> <p>23 Certainly taking all -- anybody's champions is not</p> <p>24 the best thing. But they also had Ronda Rousey and</p> <p>25 they didn't believe in Ronda Rousey.</p>

<p style="text-align: right;">330</p> <p>1 SILVA</p> <p>2 Q. And -- and just so I understand it, it would</p> <p>3 devalue a mixed martial arts promotion if the highest</p> <p>4 level fighters in that organization are taken away;</p> <p>5 correct? It would be a less valuable promotion?</p> <p>6 A. Yes.</p> <p>7 Q. And -- and that's because the highest-level</p> <p>8 fighters in an MMA promotion are a substantial</p> <p>9 component of the value of that organization; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And -- and the -- the champions and -- in</p> <p>12 general are the fighters who can headline events;</p> <p>13 correct?</p> <p>14 A. Not necessarily.</p> <p>15 Q. There are champions and then some other</p> <p>16 top-level popular fighters.</p> <p>17 A. Correct. You have some champions are</p> <p>18 popular as champions. Being a champion gives a</p> <p>19 fighter a certain level of credibility. Does not</p> <p>20 guarantee that they'll be popular.</p> <p>21 We've had some very talented champions who</p> <p>22 just never did get fan popularity. And then you had</p> <p>23 somebody who's brought up like Kimbo with Strikeforce</p> <p>24 who was never going to be a champion but was</p> <p>25 immensely popular.</p>	<p style="text-align: right;">332</p> <p>1 SILVA</p> <p>2 A. That would be ideal.</p> <p>3 Q. That would be ideal.</p> <p>4 Would you agree that a champion is typically</p> <p>5 at the height of his or her popularity as a fighter</p> <p>6 at the period at which he or she becomes the</p> <p>7 champion?</p> <p>8 A. No.</p> <p>9 Q. No. Well, when are they -- why is that not</p> <p>10 true?</p> <p>11 A. Because popularity doesn't have anything</p> <p>12 necessarily to do with your accomplishments. It can</p> <p>13 help, but it has more to do with charisma. Larry</p> <p>14 Holmes ended up accomplishing more than Muhammad Ali</p> <p>15 in many ways in his career but never was as popular</p> <p>16 as Muhammad Ali was.</p> <p>17 Q. Well, in terms of Larry Holmes' career, he</p> <p>18 was more popular when he won than when he lost;</p> <p>19 correct? Larry Holmes beat Muhammad Ali, didn't he?</p> <p>20 A. Correct, but I don't think that made him</p> <p>21 popular, I actually think that turned people against</p> <p>22 him. People resented him beating Ali.</p> <p>23 Q. Yeah, I guess that's so.</p> <p>24 But there are many who, when they become a</p> <p>25 champion, that is when their -- their -- that is the</p>
<p style="text-align: right;">331</p> <p>1 SILVA</p> <p>2 Q. So you had some champions who were not as</p> <p>3 popular and some nonchampions who were popular?</p> <p>4 A. Correct.</p> <p>5 Q. But there is a group of fighters who,</p> <p>6 whether they're champions or not, are -- tend to</p> <p>7 separate themselves from the crowd as capable of</p> <p>8 being headliners; correct?</p> <p>9 A. Yes. If you could headline with a</p> <p>10 championship fight is generally preferable than not,</p> <p>11 unless you have a big star like a Kimbo or a Gina</p> <p>12 Carano.</p> <p>13 Q. And as a general statement, an event will</p> <p>14 have difficulty succeeding without these top-level</p> <p>15 headline fighters; correct?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. Yeah. I mean, we -- UFC puts on numerous</p> <p>18 events a year and they're not all the name value that</p> <p>19 we would want, but it doesn't mean they're not going</p> <p>20 to achieve a level of success.</p> <p>21 Q. But you -- what you want is to be able to</p> <p>22 headline, as an MMA promotion, to headline your</p> <p>23 events with the top-level popular fighters, some of</p> <p>24 whom are champions; correct?</p> <p>25 MR. ISAACSON: Objection to form.</p>	<p style="text-align: right;">333</p> <p>1 SILVA</p> <p>2 height of their popularity.</p> <p>3 A. For some. For others, are you a humble</p> <p>4 champion, are you an entertaining champion. There</p> <p>5 are some champions who turn fans on them maybe with</p> <p>6 their attitudes, maybe with refusing to fight top</p> <p>7 contenders. It's just -- it's not a guaranteed</p> <p>8 thing, but it -- it's certainly -- it's at a level of</p> <p>9 accomplishment you can point to. Yes, I became a</p> <p>10 champion.</p> <p>11 Some will use that as a vehicle to -- but I</p> <p>12 would say like right now Ronda Rousey is not the</p> <p>13 champion, she's lost her last two fights, but if she</p> <p>14 came back and fought, she'd still be incredibly</p> <p>15 popular.</p> <p>16 MR. CRAMER: All right. The court</p> <p>17 reporter has asked for a break, so let's take</p> <p>18 a break.</p> <p>19 THE VIDEOGRAPHER: We're off the record at</p> <p>20 3:18 p m.</p> <p>21 (Recess taken at 3:18 p m., proceedings</p> <p>22 resumed at 3:32 p m.)</p> <p>23 THE VIDEOGRAPHER: Here begins Media</p> <p>24 Number 5 in the videotaped deposition of</p> <p>25 Joseph Silva. We're back on the record at</p>

<p style="text-align: right;">334</p> <p>1 SILVA</p> <p>2 3:32 p m.</p> <p>3 BY MR. CRAMER:</p> <p>4 Q. So I believe you testified earlier that you</p> <p>5 had authority to some degree to negotiate</p> <p>6 compensation terms with fighters; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And did Dana White or Lorenzo Fertitta</p> <p>9 handle negotiations with certain fighters?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. What was the distinction?</p> <p>12 How -- which fighters did Dana White or</p> <p>13 Lorenzo Fertitta handle the compensation negotiation,</p> <p>14 and which fighters did you or Shelby handle the</p> <p>15 negotiations for?</p> <p>16 MR. ISAACSON: Sorry to interrupt, but I</p> <p>17 think the realtime is off --</p> <p>18 MR. CRAMER: We're off the record.</p> <p>19 THE VIDEOGRAPHER: Off the record at 3:33.</p> <p>20 (Discussion off the record.)</p> <p>21 THE VIDEOGRAPHER: Back on the record at</p> <p>22 3:33.</p> <p>23 BY MR. CRAMER:</p> <p>24 Q. So Dana White or Lorenzo Fertitta handled</p> <p>25 the negotiations for certain fighters; that's</p>	<p style="text-align: right;">336</p> <p>1 SILVA</p> <p>2 willing to alter some of the terms, maybe the -- the</p> <p>3 length of the contract, other just different --</p> <p>4 anything that they do where it would involve more</p> <p>5 substantive changes that they would negotiate, I</p> <p>6 would ask them to take it because they -- it was much</p> <p>7 easier just being middleman, going back and forth.</p> <p>8 It's like, if you would just handle this, you know</p> <p>9 what you're willing to say yes and no to.</p> <p>10 Q. So, for example, with Ronda Rousey, did Dana</p> <p>11 handle that negotiation?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Approximately how many fighters a</p> <p>14 year did Dana or Lorenzo handle the negotiations with</p> <p>15 as opposed to you and Sean?</p> <p>16 A. I haven't kept track, so I couldn't give a</p> <p>17 close to exact number, but I would still say the</p> <p>18 majority of contracts were done by me and Sean.</p> <p>19 Q. And would you say 10 percent were done with</p> <p>20 Dana or Lorenzo?</p> <p>21 A. Probably in that range.</p> <p>22 Q. Okay. So I think you testified earlier that</p> <p>23 the -- the shorthand for expressing fighter</p> <p>24 compensation that you tended to use was a number for</p> <p>25 show and a number for win. And it would be expressed</p>
<p style="text-align: right;">335</p> <p>1 SILVA</p> <p>2 right -- is that right?</p> <p>3 A. Correct.</p> <p>4 Q. Do you have a sense as to which fighters or</p> <p>5 the reasons for Dana White or Fertitta to handle the</p> <p>6 negotiations as opposed to you or Shelby?</p> <p>7 A. I would say the majority of contracts were</p> <p>8 handled by me and Sean Shelby, but a couple things</p> <p>9 could affect that. Once fighters started getting</p> <p>10 into deals that were maybe out of the norm or a</p> <p>11 larger than normal jump in compensation or different</p> <p>12 terms and all, then we would refer it to them. It's</p> <p>13 like, hey, do you want to handle this.</p> <p>14 But even earlier on, even outside of that,</p> <p>15 it could be if a fighter knew them, somehow got them</p> <p>16 and said, hey, I'd like to talk to you, and they just</p> <p>17 felt like having that relationship with the fighter.</p> <p>18 Q. Okay.</p> <p>19 A. So it wasn't always higher guys, but most of</p> <p>20 the time it was people who had been in UFC for a</p> <p>21 while and maybe were up looking for a contract that</p> <p>22 was out of the norm.</p> <p>23 Q. Meaning the -- the payment would be</p> <p>24 significantly higher than the normal payments?</p> <p>25 A. Correct. Or if -- asking if they are</p>	<p style="text-align: right;">337</p> <p>1 SILVA</p> <p>2 something like 10 and 10; is that right?</p> <p>3 A. Correct.</p> <p>4 Q. And 10 and 10 would mean 10,000 to show,</p> <p>5 10,000 if you win?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So if a fighter under a 10 and 10</p> <p>8 deal fought a bout and lost, they'd get 10,000?</p> <p>9 A. Correct.</p> <p>10 Q. And if the fighter under a 10 and 10 deal</p> <p>11 fought and won, they'd get 20,000?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And that would -- that would be the</p> <p>14 only bout compensation -- a fighter under a 10 and 10</p> <p>15 deal for a particular fight, that would be the only</p> <p>16 bout compensation that Zuffa was required to pay</p> <p>17 absent some side agreement; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. So there's sometimes bonuses that Zuffa</p> <p>20 pays, but those were discretionary; is that right?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. And there were some times when Zuffa</p> <p>23 had side agreements with fighters, letters of</p> <p>24 agreements with fighters, to potentially designate</p> <p>25 some additional compensation for a fight; is that</p>

<p style="text-align: right;">378</p> <p>1 SILVA</p> <p>2 Q. So I think it's Lorenzo and Shelby.</p> <p>3 And Schaub was a UFC fighter; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. And in your opinion, he was asking to be</p> <p>6 paid more than fighters who were highly ranked than</p> <p>7 him?</p> <p>8 A. That I thought had accomplished more than he</p> <p>9 had.</p> <p>10 Q. And so because he was asking to be paid sort</p> <p>11 of out of the level that you thought should be paid</p> <p>12 to comparable fighters, you were saying that he</p> <p>13 should not get the amount that he asked for; is that</p> <p>14 right?</p> <p>15 A. Yes. That was my opinion.</p> <p>16 Q. What ended up happening, do you know?</p> <p>17 A. I think that he ended up signing a new deal</p> <p>18 and fighting after that, but I -- I'd have to look.</p> <p>19 There was a time when he was not -- ended up not</p> <p>20 fighting for us, but I don't recall if it was at the</p> <p>21 end of this or not. I don't recall --</p> <p>22 Q. Okay.</p> <p>23 A. -- the time frame.</p> <p>24 Q. All right. You can put that aside.</p> <p>25 And I believe you testified that the</p>	<p style="text-align: right;">380</p> <p>1 SILVA</p> <p>2 contract, it's just faster to put them back in there</p> <p>3 quickly than if you're starting from scratch. So you</p> <p>4 just always knew. It's like, as many of those guys</p> <p>5 that you have like that, the better to -- to keep the</p> <p>6 shows moving smoothly.</p> <p>7 Q. Was it your -- were you aware whether Shelby</p> <p>8 also in -- was -- strike that.</p> <p>9 Was it your understanding that Shelby also</p> <p>10 had a practice of negotiating after the third fight</p> <p>11 of a four-fight deal?</p> <p>12 A. I think we were somewhat similar. I think,</p> <p>13 for Sean's might have been a little bit different</p> <p>14 because before I retired, we were both matchmakers</p> <p>15 but I was doing more fights than he was. So he had</p> <p>16 less spots on the show, so he had to have even</p> <p>17 tighter rein over the amount of fighters that he had.</p> <p>18 So he might have been more willing to just have</p> <p>19 fighters fight out their deal because we were</p> <p>20 concerned about making sure not to have too many</p> <p>21 under contract. And he had less spots to play with</p> <p>22 on a show than I did.</p> <p>23 Q. I see.</p> <p>24 Who is Ryan Parsons?</p> <p>25 A. He's an MMA manager.</p>
<p style="text-align: right;">379</p> <p>1 SILVA</p> <p>2 standard Zuffa contract was for four bouts, but that</p> <p>3 you typically renegotiated before the last fight?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And is it fair to say that fighters</p> <p>6 rarely fought out the last fight in their contract</p> <p>7 without negotiating a new contract?</p> <p>8 A. No, it would happen. More times than not</p> <p>9 they would want a new deal. But they -- there</p> <p>10 were certainly -- there's lots of examples of people</p> <p>11 who just, no, I'm going to do it.</p> <p>12 Even Roy Nelson in that aforementioned fight</p> <p>13 with Stipe, that was his last fight under contract.</p> <p>14 He lost to Stipe and they still signed him to a new</p> <p>15 deal.</p> <p>16 Q. And when you -- you're describing your --</p> <p>17 your practice of negotiating after the third fight</p> <p>18 before the last fight in a contract. Was that an</p> <p>19 informal Zuffa policy, to your understanding, or</p> <p>20 that's just something that you did, that was just</p> <p>21 your practice?</p> <p>22 A. I think it was kind of informal. But</p> <p>23 there's an -- that you have a bunch of shows that</p> <p>24 you're doing, and there's constant dropouts, so speed</p> <p>25 became paramount, and if somebody is already under</p>	<p style="text-align: right;">381</p> <p>1 SILVA</p> <p>2 Q. And was he a representative for Patrick</p> <p>3 Cummins?</p> <p>4 A. Yes.</p> <p>5 MR. CRAMER: All right. I'd like to mark</p> <p>6 as Silva Exhibit 39 the next document.</p> <p>7 (Silva Deposition Exhibit 39 marked for</p> <p>8 identification.)</p> <p>9 Q. So at the top of this -- this e-mail is</p> <p>10 dated May 5th, 2015, the one at the top. This --</p> <p>11 this is a one-page document with two e-mails with the</p> <p>12 Bates number ZFL-0977248. And there's an e-mail from</p> <p>13 you to Mr. Parsons.</p> <p>14 Did you send that e-mail?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And you write: "I'm not" -- "I'm not</p> <p>17 locking him into a long term deal."</p> <p>18 And you say: "It's just a 4 fight deal and</p> <p>19 I always renegotiate before the last fight just like</p> <p>20 I am doing now. So 3 fights and we talk again."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So this is an instance of you enacting your</p> <p>24 practice of negotiating before the last fight; is</p> <p>25 that right?</p>

<p style="text-align: right;">382</p> <p>1 SILVA</p> <p>2 A. Correct.</p> <p>3 Q. And here you only wanted a -- here you were</p> <p>4 asking the fighter to fight a deal -- to sign a</p> <p>5 four-fight deal and then you would again enact your</p> <p>6 practice and negotiate after three fights?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. So let's say a fighter is on a --</p> <p>9 fought his -- won his first three fights on an 8/8</p> <p>10 contract, he would be due 14/14 for the fourth fight</p> <p>11 typically?</p> <p>12 A. I'm not --</p> <p>13 Q. Fought three, 8/8, 10/10, 12/12, the up --</p> <p>14 the next fight would be 14/14?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. But to get a fighter to re-up for</p> <p>17 another four-fight deal, you'd come to them after the</p> <p>18 third fight and offer to pay them a higher amount for</p> <p>19 what would have been their fourth fight?</p> <p>20 A. Correct.</p> <p>21 Q. And you make that the first fight of the</p> <p>22 next contract?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. And in return, he would be obligated</p> <p>25 for three more fights with Zuffa than were obligated</p>	<p style="text-align: right;">384</p> <p>1 SILVA</p> <p>2 some go, no, I -- I'd just like to fight this out and</p> <p>3 then see what I can get outside of it.</p> <p>4 Q. The vast majority re-up under a new deal;</p> <p>5 correct?</p> <p>6 MR. ISAACSON: Objection. Form.</p> <p>7 A. I don't know that I would say vast, but I</p> <p>8 would say the majority.</p> <p>9 Q. Okay. And between the third and the fourth</p> <p>10 fight, the only number against which Zuffa had to bid</p> <p>11 was the last number in the prior contract; right?</p> <p>12 There's no outside bidder at that time;</p> <p>13 correct?</p> <p>14 A. Correct. They're still under an exclusive</p> <p>15 contract.</p> <p>16 Q. And by extending -- by -- by enacting this</p> <p>17 practice and renegotiating between the third and the</p> <p>18 fourth fight, Zuffa would ensure that the fighter</p> <p>19 wouldn't reach the end of their deal; right? They'd</p> <p>20 now be fighting the first fight of a new deal;</p> <p>21 correct?</p> <p>22 A. They would be fighting the first fight of a</p> <p>23 new deal.</p> <p>24 Q. And so through this practice, Zuffa is able</p> <p>25 to hold onto fighters that it wants without having to</p>
<p style="text-align: right;">383</p> <p>1 SILVA</p> <p>2 under the initial contract; is that right?</p> <p>3 A. Correct.</p> <p>4 Q. Okay. And it's fair to say that during the</p> <p>5 period between the third and the fourth fight, the</p> <p>6 fighter would not be permitted to negotiate a deal</p> <p>7 with another promotion; right?</p> <p>8 A. Correct.</p> <p>9 Q. So by negotiating with fighters before their</p> <p>10 contracts expired, Zuffa ensured that it was the only</p> <p>11 bidder for those fighter's services during that</p> <p>12 period; correct?</p> <p>13 MR. ISAACSON: Objection. Form.</p> <p>14 Argumentative.</p> <p>15 A. Yeah, I mean, they're still under contract.</p> <p>16 I couldn't do that with any of Bellator's fighters or</p> <p>17 anybody else's, too, if their contract is not up. If</p> <p>18 their contract's not up, I'm saying you've got</p> <p>19 another fight, would you like to? And you have the</p> <p>20 option not to. And people have certainly taken that</p> <p>21 option.</p> <p>22 But a lot of people also like more money.</p> <p>23 It's like, I'm going to fight in the UFC again, I</p> <p>24 still have a fight, I could do it for less money or</p> <p>25 more money, I -- I like the idea of more money. But</p>	<p style="text-align: right;">385</p> <p>1 SILVA</p> <p>2 match or beat the offers of other MMA promotions;</p> <p>3 correct?</p> <p>4 A. As I stated earlier, it was more about being</p> <p>5 able to do things quickly that we could -- we have a</p> <p>6 lot of promotional deadlines as -- as far as if I</p> <p>7 need somebody to be able to step in and fight in a</p> <p>8 main event or a co-main event, the lead time that you</p> <p>9 need for advertising and putting pieces together is</p> <p>10 very fast, and that's easier to do if a fighter is</p> <p>11 under contract with you than if they're not. And --</p> <p>12 and that holds up that process. With the amount of</p> <p>13 shows that we do, that became of paramount</p> <p>14 importance.</p> <p>15 Q. If a fighter refused to accept the new deal</p> <p>16 that you were offering them between the third and the</p> <p>17 fourth fight, he would face a situation where he was</p> <p>18 fighting that last fight at less compensation than he</p> <p>19 would have gotten had he accepted the new deal;</p> <p>20 correct? In other words --</p> <p>21 A. Yes, he chose to fight at less money.</p> <p>22 Q. Right. So the -- the fighter would have --</p> <p>23 in order to fight that fourth fight on the initial</p> <p>24 contract, the existing contract, the fighter would</p> <p>25 need to decide to take less money for that last fight</p>

<p style="text-align: right;">386</p> <p>1 SILVA</p> <p>2 than if they decided to re-up for a new four-fight</p> <p>3 deal; right?</p> <p>4 A. If that's what they agreed to.</p> <p>5 Q. Right. But --</p> <p>6 A. If there was no offer made, that's still</p> <p>7 what they would be fighting for.</p> <p>8 Q. Right. So if the last fight on the first</p> <p>9 deal is 14/14, you would go to that fighter and say,</p> <p>10 Let's scrap the 14/14, let's get a new four-fight</p> <p>11 deal and we'll make the first -- the next fight</p> <p>12 16/16?</p> <p>13 A. Yes.</p> <p>14 Also I -- I should say that we've had</p> <p>15 numerous fighters, and Sean more than I, because</p> <p>16 of -- like I said, of him having less spaces to work</p> <p>17 with, where he did not bring them a deal and they</p> <p>18 came to him. "Wait, we're -- we've only got one</p> <p>19 fight left, why don't you make us a new offer?"</p> <p>20 We do get a fair share of those. If I'm in</p> <p>21 that situation, it's like, man, you know what, I do</p> <p>22 just have too many people in this weight class. I</p> <p>23 am -- you know, this guy's had fair to middling</p> <p>24 results, I'm just going to let him fight it out, and</p> <p>25 they'll come to me going, no, I -- I would like more</p>	<p style="text-align: right;">388</p> <p>1 SILVA</p> <p>2 A. If I had time to prepare, I'm sure I can</p> <p>3 pull up multiple ones for you.</p> <p>4 Q. Would you agree with me, though, from a</p> <p>5 fighter's perspective, fighting the last fight of a</p> <p>6 four-fight deal and fighting the first fight --</p> <p>7 strike that.</p> <p>8 MR. ISAACSON: Good time for a break?</p> <p>9 MR. CRAMER: All right. Let's take a</p> <p>10 break.</p> <p>11 THE VIDEOGRAPHER: Off the record at 4:34.</p> <p>12 (Recess taken at 4:34 p.m., proceedings</p> <p>13 resumed at 4:47 p.m.)</p> <p>14 THE VIDEOGRAPHER: We are back on the</p> <p>15 record at 4:47.</p> <p>16 MR. CRAMER: I'd like to mark the next</p> <p>17 document as Silva 40.</p> <p>18 (Silva Deposition Exhibit 40 marked for</p> <p>19 identification.)</p> <p>20 BY MR. CRAMER:</p> <p>21 Q. Silva 40 is a series of e-mails bearing the</p> <p>22 Bates range ZFL-0876778 through 780. The only thing</p> <p>23 I wanted to do is draw your attention to the e-mail</p> <p>24 that you sent to Audie Attar regarding Jake</p> <p>25 Matthews --</p>
<p style="text-align: right;">387</p> <p>1 SILVA</p> <p>2 money, I'd like to do a new deal. So it also -- they</p> <p>3 saw a benefit quite often.</p> <p>4 Q. Right. So fighters saw a benefit. One</p> <p>5 benefit of signing a new deal is that they would make</p> <p>6 more money for that next fight; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Another benefit of that new deal would be</p> <p>9 that if they rejected that new deal, they could risk</p> <p>10 being seen as disloyal to the UFC; correct?</p> <p>11 A. No.</p> <p>12 Q. No?</p> <p>13 Rejecting a new deal doesn't risk the</p> <p>14 leadership of UFC as seeing that person as</p> <p>15 potentially disloyal or a problem?</p> <p>16 A. No. I would say that Roy Nelson was quite</p> <p>17 the problem, and lost and got a big raise anyways --</p> <p>18 Q. Well --</p> <p>19 A. -- after his contract was up, after he</p> <p>20 fought and lost his last fight on his contract. So</p> <p>21 we've demonstrated that that's not.</p> <p>22 Q. So you did it once?</p> <p>23 A. We've done it many times. That's one that I</p> <p>24 can remember off the top of my head.</p> <p>25 Q. Can you remember any other times?</p>	<p style="text-align: right;">389</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. -- on June 8, 2015. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Jake Matthews was a UFC fighter; is that</p> <p>6 right?</p> <p>7 A. Correct.</p> <p>8 Q. And Audie Attar was his representative?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And this is an example of you</p> <p>11 approaching the fighter who's on the last fight of a</p> <p>12 deal?</p> <p>13 A. Yes.</p> <p>14 Q. So it says: "Jake is on his last fight at</p> <p>15 12 plus 12. I'll drop that and give him 15/15."</p> <p>16 Do you mean 158/18?</p> <p>17 A. I just liked him so much, I thought he</p> <p>18 deserved a bump in that -- yeah, no, that was a typo,</p> <p>19 which we addressed.</p> <p>20 Q. Yeah. So it's 18/18, 21/21 and 24/24; is</p> <p>21 that right?</p> <p>22 A. Correct.</p> <p>23 Q. So this is an instance where you approached</p> <p>24 Matthews' representative, he was on the last fight of</p> <p>25 a deal that would have paid him 12/12, and you said</p>

<p style="text-align: right;">390</p> <p>1 SILVA</p> <p>2 if you drop that and sign a new four -- four-fight</p> <p>3 deal, that next fight would be at 15/15; is that</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. You can put that aside.</p> <p>7 MR. CRAMER: Like to mark the next</p> <p>8 document as Silva Exhibit 41.</p> <p>9 (Silva Deposition Exhibit 41 marked for</p> <p>10 identification.)</p> <p>11 Q. Silva 41 is a two-page series of e-mails</p> <p>12 bearing the Bates range ZFL-2643298 through 299.</p> <p>13 This is a November 2008 e-mail exchange between you,</p> <p>14 Tracy Hyman, Michael Mersch and Lawrence Epstein; is</p> <p>15 that right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And this -- the "re" line is Serra</p> <p>18 and Hughes. They were both UFC fighters; is that</p> <p>19 right?</p> <p>20 A. Correct.</p> <p>21 Q. And both were former champions; is that</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. On the second page of the document</p> <p>25 there is an e-mail that starts at the bottom of the</p>	<p style="text-align: right;">392</p> <p>1 SILVA</p> <p>2 Q. Having it run out before they can fight?</p> <p>3 A. Correct.</p> <p>4 Q. So you extended the term of the contract for</p> <p>5 six months or for however long they were sitting out;</p> <p>6 is that right?</p> <p>7 A. Yes, for however long they were sitting out.</p> <p>8 Q. And then Hyman, on page 1, responds to you</p> <p>9 on November 25, 2008, about the extensions, and she</p> <p>10 says: "Hughes does. Serra doesn't. He has a new</p> <p>11 agreement out though. When he signs, the time</p> <p>12 doesn't begin to run on his agreement until he fights</p> <p>13 his first" -- "his first first."</p> <p>14 A. Yes. Supposed to be first fight.</p> <p>15 Q. His first fight.</p> <p>16 So let me ask you this. Is it fair to say</p> <p>17 that the way Zuffa's agreements work is that they're</p> <p>18 executed on one day, but the term of the agreement</p> <p>19 doesn't start until the first fight?</p> <p>20 A. That's correct.</p> <p>21 Q. But it's fair to say that the contract</p> <p>22 becomes exclusive between Zuffa and the fighter from</p> <p>23 the day it is signed; correct?</p> <p>24 A. Correct.</p> <p>25 Q. So that the actual term of the contract as</p>
<p style="text-align: right;">391</p> <p>1 SILVA</p> <p>2 first page from you, dated November 25, 2008, to</p> <p>3 Hyman, cc to Epstein and Mersch.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. So you sent this e-mail; is that right?</p> <p>7 A. Yes.</p> <p>8 Q. And you said: "Due to Hughes' knee injury</p> <p>9 and Serra's wife giving birth, both guys have been on</p> <p>10 the shelf for a while."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And then you said: "It looks like</p> <p>14 they will now end up fighting each other April or</p> <p>15 May. Just want to make sure they both have extension</p> <p>16 notices out."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What did you mean by "extension notices"?</p> <p>20 A. To make sure that -- they are saying that</p> <p>21 they cannot participate in a fight due to injury and</p> <p>22 due to the birth of a child. So knowing they've been</p> <p>23 under contract for a while, to make sure that we</p> <p>24 weren't going to breach that contract by just having</p> <p>25 it go up before they can fight.</p>	<p style="text-align: right;">393</p> <p>1 SILVA</p> <p>2 opposed to the defined term is different; right?</p> <p>3 So if you sign the contract on day one but</p> <p>4 you don't fight for three months later, the term</p> <p>5 doesn't start until three months later?</p> <p>6 A. That's my understanding. I didn't draft the</p> <p>7 contract.</p> <p>8 Q. Okay. All right. In the middle of the</p> <p>9 first page, you respond to Ms. Hyman's e-mail to you</p> <p>10 and cc'ing Epstein and Mersch on November 25th, 2008.</p> <p>11 You say: "I trust Serra but it is always a bad</p> <p>12 position for us to be in counting on that new</p> <p>13 agreement while time is ticking away on the old one.</p> <p>14 If they decide not to sign it we are in a bad</p> <p>15 position so let's get it back ASAP."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And you wrote that?</p> <p>19 A. I did.</p> <p>20 Q. And can you explain to me why it would be in</p> <p>21 a -- why UFC would be in a bad position in the</p> <p>22 circumstance here where there's a new agreement out</p> <p>23 but time is ticking away on the old one?</p> <p>24 A. Because their fight had been announced,</p> <p>25 because they had coached against each other on</p>

<p style="text-align: right;">394</p> <p>1 SILVA</p> <p>2 The Ultimate Fighter, so the fight was already</p> <p>3 promised. The fight's out, but yet if he chose to,</p> <p>4 Serra could choose to let his old contract just</p> <p>5 expire and have no obligation to do that fight.</p> <p>6 Q. You say: "It's always a bad position for us</p> <p>7 to be in counting on that new agreement while time is</p> <p>8 ticking away on the old one."</p> <p>9 Is what you meant there that you'd rather</p> <p>10 have a new agreement executed before the old one</p> <p>11 expires?</p> <p>12 A. Well, if -- when it's a situation where you</p> <p>13 have an already announced fight, which was here,</p> <p>14 that's definitely not a good situation. You --</p> <p>15 you're not going to possibly deliver on something you</p> <p>16 promised publicly.</p> <p>17 Q. So Zuffa doesn't want to be embarrassed by</p> <p>18 publicly promising a fight and then not having the</p> <p>19 fight happen?</p> <p>20 A. Yes.</p> <p>21 Q. Is it also the case, though, that one of the</p> <p>22 reasons why you try -- it's your practice to try to</p> <p>23 negotiate with a fighter after the third fight in a</p> <p>24 four-fight deal, is to not be in a situation where a</p> <p>25 contract is expiring without a new one having been</p>	<p style="text-align: right;">396</p> <p>1 SILVA</p> <p>2 Connette dated November 16, 2011.</p> <p>3 A. Uh-huh.</p> <p>4 Q. And Mersch says in the second paragraph:</p> <p>5 "Before someone fights for a UFC championship we</p> <p>6 would likely have them locked into a longer term</p> <p>7 deal. Additionally, if a fighter is successful under</p> <p>8 a 4 fight deal, we typically negotiate a new</p> <p>9 agreement after the 3rd fight so he never will see</p> <p>10 the end of his contract and, assuming the fighter is</p> <p>11 successful, or at least competitive, that is the</p> <p>12 process that will continue thereafter."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Is -- is Mr. Mersch accurately describing</p> <p>16 the practice at Zuffa with regard to renegotiating</p> <p>17 contracts after the third fight and before the fourth</p> <p>18 fight?</p> <p>19 A. That's not how I would put it.</p> <p>20 Q. So Mersch puts it differently than you</p> <p>21 would?</p> <p>22 A. Yes.</p> <p>23 Q. All right. You can put that document aside.</p> <p>24 MR. CRAMER: I'd like to mark the next</p> <p>25 document as Silva Exhibit 43.</p>
<p style="text-align: right;">395</p> <p>1 SILVA</p> <p>2 signed?</p> <p>3 A. That's not as much of a problem unless we</p> <p>4 didn't get them their number of fights. Then we</p> <p>5 would have to pay them for whatever unfulfilled. If</p> <p>6 it expired and there were still fights left on their</p> <p>7 contract, we would be responsible to still pay them</p> <p>8 for the fights we did not get them before expiration.</p> <p>9 Q. All right. You can put that document aside.</p> <p>10 MR. CRAMER: All right. I'd like to mark</p> <p>11 as the next document Silva Exhibit 42.</p> <p>12 (Silva Deposition Exhibit 42 marked for</p> <p>13 identification.)</p> <p>14 Q. Silva 42 is a November 2011 e-mail exchange</p> <p>15 between Michael Mersch and Michael Connette, it bears</p> <p>16 the Bates range ZFL-1404974 through 4978.</p> <p>17 I believe I asked you this before, but</p> <p>18 Connette was a representative for UFC fighter Mark</p> <p>19 Hunt; is that right?</p> <p>20 A. Yeah. I believe it's Connette.</p> <p>21 Q. Connette. So Connette was a representative</p> <p>22 for Hunt?</p> <p>23 A. Yes.</p> <p>24 Q. Turn to the bottom of the third page of this</p> <p>25 series of e-mails. There's an e-mail from Mersch to</p>	<p style="text-align: right;">397</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 43 marked for</p> <p>3 identification.)</p> <p>4 Q. Silva 43 is a one-page series of e-mails</p> <p>5 dated [sic] ZFL-14121551. The e-mail at the bottom</p> <p>6 of the page is from Cesar Gracie dated Tuesday,</p> <p>7 April 20, 2010. It's to Mr. Silva, and the subject</p> <p>8 is Nick Diaz.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And you received that e-mail?</p> <p>12 A. Yes.</p> <p>13 Q. And Nick Diaz was a UFC fighter?</p> <p>14 A. Yes.</p> <p>15 Q. And you were making -- I'm sorry.</p> <p>16 And Mr. Gracie, on behalf of Nick Diaz, was</p> <p>17 negotiating with you for a new contract; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And he requests 33/33, 36/36, and 39/39, or</p> <p>21 alternatively a one-year contract at 42/42.</p> <p>22 Do you see that?</p> <p>23 A. No. He's saying he wants the -- the three</p> <p>24 fights he doesn't think we can get him more than a</p> <p>25 year, so it would be that much for a year. But if</p>

<p style="text-align: right;">398</p> <p>1 SILVA</p> <p>2 you could get him a fourth fight, we'd do that at 42</p> <p>3 plus 42.</p> <p>4 Q. I see.</p> <p>5 A. That's what he's saying.</p> <p>6 Q. I see.</p> <p>7 And then he says: "These numbers are</p> <p>8 substantially less than what Strikeforce will offer."</p> <p>9 Do you see that?</p> <p>10 A. Yes, that's what he's saying.</p> <p>11 Q. And then you say to White and Fertitta right</p> <p>12 above that -- you forward the below e-mail on</p> <p>13 April 20th, 2010, you say: "Do we let Strikeforce</p> <p>14 pay him 48,000 plus 48,000" -- excuse me -- "or do we</p> <p>15 give them what they want? He was making 24 plus 24.</p> <p>16 I offered 27/27, 30/30, 33/33, 36/36."</p> <p>17 Do you see that?</p> <p>18 A. Yes. Yeah.</p> <p>19 Q. And then Mr. Fertitta responds to you on</p> <p>20 April 20 at 7:39 p.m., he says: "So I guess we will</p> <p>21 hang tight at the number offered. He should be</p> <p>22 willing to take less money from us."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have an understanding about why</p>	<p style="text-align: right;">400</p> <p>1 SILVA</p> <p>2 comeback, and then you say: "If they turn it down I</p> <p>3 put him in a prelim against a really tough guy for</p> <p>4 his last fight."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. So you're saying that if Diaz turns down the</p> <p>8 offer which was being made before Diaz's last fight,</p> <p>9 you were going to put him at a really bad position on</p> <p>10 a card against a tough fight -- tough guy?</p> <p>11 A. It's not in a bad position on the card.</p> <p>12 Everybody has to -- if you want to fight in a show,</p> <p>13 you only have so many positions, so you're going to</p> <p>14 be somewhere. But I'm -- am I going to give that</p> <p>15 spotlight more to somebody who I'm already building</p> <p>16 their next fight or somebody fighting their last</p> <p>17 fight. You have to make that choice.</p> <p>18 If he agreed to sign the deal, I still have</p> <p>19 to decide where to put him. That they still could be</p> <p>20 in the prelims. On a Pay-Per-View, you only have 5</p> <p>21 main hard fights out of 13. So outside of those 5</p> <p>22 bout -- main fight -- bout fights, the rest are</p> <p>23 prelims. The majority of fights are prelims. To go,</p> <p>24 you're going to put him in a really bad position,</p> <p>25 doesn't make sense.</p>
<p style="text-align: right;">399</p> <p>1 SILVA</p> <p>2 Mr. Fertitta thought that Mr. Diaz would be willing</p> <p>3 to take less money from the UFC than from</p> <p>4 Strikeforce?</p> <p>5 A. Well, he explains it in the next --</p> <p>6 MR. ISAACSON: Objection. Calls for</p> <p>7 speculation.</p> <p>8 A. Explains it in the next sentence.</p> <p>9 Q. What was it? What does he say?</p> <p>10 A. Says: He got five structured bonuses in his</p> <p>11 last eight fights plus discretionary totaling</p> <p>12 \$250,000, which he won't get in Strikeforce.</p> <p>13 So he's saying he made bonus money in</p> <p>14 addition over the -- what he would have got in</p> <p>15 Strikeforce.</p> <p>16 Q. I see. So Strikeforce might guarantee him</p> <p>17 more, but --</p> <p>18 A. Right.</p> <p>19 Q. -- but in the UFC, you'll have the</p> <p>20 opportunity to get discretionary bonuses?</p> <p>21 A. And he had a history of making.</p> <p>22 Q. Okay. And then you respond to White and</p> <p>23 Fertitta on April 20, 2010: "I lowballed them on</p> <p>24 purpose the first offer knowing they would turn it</p> <p>25 down. How about I come back with" -- and you list a</p>	<p style="text-align: right;">401</p> <p>1 SILVA</p> <p>2 Q. Well, you say -- you're offering him a deal</p> <p>3 before the last fight, and he has the option at this</p> <p>4 point to take the deal or fight that last fight under</p> <p>5 the old contract; and you say if he does, he turns it</p> <p>6 down --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- you'll put him in a prelim against a</p> <p>9 really tough guy for his last fight; right?</p> <p>10 A. Right. Which he's only fought really tough</p> <p>11 guys. So what I'm specifying is this. Won't be on</p> <p>12 the main card, because we have no commitment from him</p> <p>13 for future, and -- but letting him know, just because</p> <p>14 it's not on the main card, he's still going to fight</p> <p>15 a real guy. It's not like, oh, it's a prelim, he's</p> <p>16 going to fight somebody unworthy. It's like, no,</p> <p>17 he's going to fight somebody really tough. And if</p> <p>18 you look at his record before and after, he's always</p> <p>19 fought really tough guys.</p> <p>20 Q. So in exchange for Diaz not giving you and</p> <p>21 the UFC a commitment to -- to re-up on a new</p> <p>22 contract, you're going to -- you're going to put him</p> <p>23 in a prelim and still give him a tough guy, is that</p> <p>24 right, to fight?</p> <p>25 A. He's only ever fought tough guys even when</p>

<p style="text-align: right;">402</p> <p>1 SILVA</p> <p>2 he fought in the prelims before, so, yes, it would</p> <p>3 not be different or unusual.</p> <p>4 Q. And so your testimony here today, under</p> <p>5 oath, is that when you said, if they turn it down, I</p> <p>6 put him in a prelim against a really tough guy for</p> <p>7 his fight, you did not mean that that would be in a</p> <p>8 sense punitive for him turning down the deal?</p> <p>9 A. It's not punitive.</p> <p>10 Q. Is your testimony also that if he accepted</p> <p>11 the deal, you would still put him in a prelim against</p> <p>12 a really tough guy for his last fight?</p> <p>13 A. No. Then he'd fight a really tough guy, but</p> <p>14 most likely be featured, because we have future</p> <p>15 fights with him to promote him.</p> <p>16 Q. So fighters -- it's fair to say that a</p> <p>17 fighter who was offered a deal before their last</p> <p>18 fight, reasonably anticipate that if they don't</p> <p>19 accept that deal before their last fight, they would</p> <p>20 be in a worse position than if they accept the deal,</p> <p>21 not just because they get paid less money for that</p> <p>22 last fight, but also because their not giving Zuffa a</p> <p>23 commitment meant that Zuffa was not going to give</p> <p>24 them a favored position on a card; is that fair?</p> <p>25 A. No. It just depends on the circumstance.</p>	<p style="text-align: right;">404</p> <p>1 SILVA</p> <p>2 everything's fine, he's not on his last fight, he's</p> <p>3 just on his regular one, some cards are very good and</p> <p>4 you are agonizing over who goes where, who gets those</p> <p>5 main card slots or not. And that Sean has fighters</p> <p>6 of his and he wants to get them face time, make them</p> <p>7 seem important and put there, so I'm trying to take</p> <p>8 his needs into consideration. Who does Dana think is</p> <p>9 main-card worthy. Who does Lorenzo.</p> <p>10 There's a lot that goes into it. So we</p> <p>11 have -- but we have shown that in the past there's</p> <p>12 people who are in this situation still ended up main</p> <p>13 card, and there's ones who didn't. It just depends</p> <p>14 on the situation.</p> <p>15 Q. But all things being equal, you'd more</p> <p>16 likely give someone a better position on a card if</p> <p>17 they agree to commit to more fights and to a --</p> <p>18 another contract than if they don't; right?</p> <p>19 A. If they're name -- name worthy enough to be</p> <p>20 on the main card.</p> <p>21 Q. Right. So if --</p> <p>22 A. And somewhere on the bubble.</p> <p>23 Q. So someone who's name worthy enough to be on</p> <p>24 the main card, all things being equal, you'd give</p> <p>25 them the better position relative to others if they</p>
<p style="text-align: right;">403</p> <p>1 SILVA</p> <p>2 That was this particular circumstance. As with the</p> <p>3 Roy Nelson circumstance, he still fought, might have</p> <p>4 been a co-main event. It just depends on the</p> <p>5 circumstance of the card.</p> <p>6 On this particular card, it was a strong</p> <p>7 card. On the one that Roy Nelson was, it was not a</p> <p>8 strong card, so it's like, well, there is still</p> <p>9 space. We're not going to be punitive and cut off</p> <p>10 our nose to spite our face and put him on a prelim on</p> <p>11 a card that's not as strong.</p> <p>12 On this particular card, it was a strong</p> <p>13 card, and it's like, yeah, it's not hurting us for</p> <p>14 him to be -- he'd be the main event of the prelims,</p> <p>15 which is still a good position, that's a fight that</p> <p>16 would be on FS1 and seen by over a million people.</p> <p>17 And then you still could get that -- that they</p> <p>18 advertise that, so you still could get promotion out</p> <p>19 of it. But it's like, am I going to put him over the</p> <p>20 other five guys on a strong card with no commitment</p> <p>21 to him. It's like, I'd rather use that time on the</p> <p>22 guys that I do.</p> <p>23 Q. Have a commitment on --</p> <p>24 A. And you always -- and each one, you still</p> <p>25 have to make that choice. Even when he -- if</p>	<p style="text-align: right;">405</p> <p>1 SILVA</p> <p>2 agreed to commit to another contract than if they</p> <p>3 didn't agree; correct?</p> <p>4 A. Depending on the card.</p> <p>5 Q. Depending on the card.</p> <p>6 But all things equal. So everything's</p> <p>7 equal. What --</p> <p>8 A. Anytime everything's equal, anything that's</p> <p>9 unequal makes the difference.</p> <p>10 Q. Right. And so this is something that would</p> <p>11 make the difference; right?</p> <p>12 So everything's equal. And the only thing</p> <p>13 you know now is that this guy's main card worthy and</p> <p>14 he has agreed to re-up, versus, it's the same</p> <p>15 situation, main card worthy where he's not agreed to</p> <p>16 re-up. You'd more likely give the main card in a</p> <p>17 better position to the guy who has agreed to re-up as</p> <p>18 opposed to the one who hasn't; right?</p> <p>19 A. Yes.</p> <p>20 Q. All right. You can put that document aside.</p> <p>21 By the way, did you tell Mr. Diaz or his</p> <p>22 representative that if they did not re-sign a new</p> <p>23 contract what position they would get on the card?</p> <p>24 A. I don't recall.</p> <p>25 Q. Was it the case that sometimes you, in the</p>

<p style="text-align: right;">406</p> <p>1 SILVA</p> <p>2 course of negotiating with a fighter after their</p> <p>3 third fight and before the fourth fight, you would</p> <p>4 tell the representative, well, as an incentive to</p> <p>5 re-sign, we not only will pay you more but we'll give</p> <p>6 you a better position on a card for --</p> <p>7 A. Absolutely not.</p> <p>8 Q. Okay.</p> <p>9 A. Because I didn't have the authority to do</p> <p>10 that. And the card order would change constantly up</p> <p>11 to the last minute.</p> <p>12 So there were times where quite often it was</p> <p>13 left to my general discretion what the order of the</p> <p>14 card would be, but then Dana -- so I might even let</p> <p>15 somebody know, this is it, I've got no opposition, so</p> <p>16 this is there, but then Dana would go, no, I want --</p> <p>17 I want this this way. And then I'd have to go back</p> <p>18 and tell the person that could be very disappointed,</p> <p>19 so I stopped telling people, because I knew it -- it</p> <p>20 could change at any time.</p> <p>21 Especially with dropouts, which happen every</p> <p>22 show. It's very rare that we ever have a show where</p> <p>23 there's not dropouts, which reshuffles the lineup.</p> <p>24 So at any time your card position can</p> <p>25 change. So I went out of my way not to. And</p>	<p style="text-align: right;">408</p> <p>1 SILVA</p> <p>2 Zuffa extended a fighter's contract even though that</p> <p>3 fighter never turned down a fight based on injury?</p> <p>4 A. No. Well, you wouldn't have to turn down a</p> <p>5 fight, though, if you just let us know you're injured</p> <p>6 and can't fight. There would be no point in me</p> <p>7 offering you a fight. If you call me up today and</p> <p>8 go, hey, I just let -- letting you know I broke my</p> <p>9 arm, I'm not going to be available to fight; for me</p> <p>10 to call you the next day and offer you a fight would</p> <p>11 be silly.</p> <p>12 Q. I see. So if someone informs you that they</p> <p>13 are injured and can't fight, then you give them an</p> <p>14 injury extension?</p> <p>15 A. Exactly.</p> <p>16 Q. Okay.</p> <p>17 MR. CRAMER: I'd like to mark the next</p> <p>18 document as Silva Exhibit 44.</p> <p>19 (Silva Deposition Exhibit 44 marked for</p> <p>20 identification.)</p> <p>21 Q. So the Bates number was cut off in part.</p> <p>22 This is a one-page series of two e-mails with the</p> <p>23 Bates number COX-0041232. And this is Silva 44.</p> <p>24 Okay. This is a November 2012 e-mail</p> <p>25 exchange between you and Monte Cox. At the bottom of</p>
<p style="text-align: right;">407</p> <p>1 SILVA</p> <p>2 honestly, very few people asked.</p> <p>3 You'd have people ask if they were the main</p> <p>4 event. Because in a nontitle main event fight,</p> <p>5 especially, it's a five-round fight as opposed to a</p> <p>6 three-round fight. So there was very concrete reason</p> <p>7 why they would want to know that.</p> <p>8 But in general, I did not -- for a while I</p> <p>9 think maybe people were just curious. Well, where am</p> <p>10 I, when I could tell my family when they can expect</p> <p>11 to see my fight. And -- and there just came a time,</p> <p>12 it's like it's changed enough times, like, I</p> <p>13 really -- I can't commit. This is what it is for the</p> <p>14 moment, but it's subject to change.</p> <p>15 Q. Okay. I'd like to ask you about injury</p> <p>16 extensions. We talked a little bit about that.</p> <p>17 A. Yeah.</p> <p>18 Q. If you found out after the fact that a</p> <p>19 fighter had been injured, but the fighter never</p> <p>20 turned down a fight and never told you beforehand</p> <p>21 that he was injured, is it your understanding that</p> <p>22 you could extend their agreement for the period of</p> <p>23 injury?</p> <p>24 A. No.</p> <p>25 Q. So you don't know of any instance where</p>	<p style="text-align: right;">409</p> <p>1 SILVA</p> <p>2 the page on November 13, 2012, Mr. Cox sends you an</p> <p>3 e-mail with the subject, "Why are we getting an</p> <p>4 injury extension for Rich?"</p> <p>5 And that refers to Rich Franklin; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. He was a UFC champion?</p> <p>9 A. Yes.</p> <p>10 Q. And Clare Wetton --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- who is she?</p> <p>13 A. She works in our Europe office.</p> <p>14 Q. All right. So she works in your Europe</p> <p>15 office. And on November 10, 2012, sends to you --</p> <p>16 you and some others, an e-mail, "Subject: Rich</p> <p>17 Franklin," "Importance: High," and says: "Rich</p> <p>18 Franklin has [REDACTED]</p> <p>19 [REDACTED]"</p> <p>20 And then Silva -- you say to Cox in response</p> <p>21 to his question why -- why are we getting an injury</p> <p>22 extension letter for Rich, you say: "They generate</p> <p>23 them automatically when a fighter is injured after a</p> <p>24 fight."</p> <p>25 Do you see that?</p>

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<p style="text-align: right;">410</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. So it was the practice of Zuffa to generate</p> <p>4 an injury extension letter for fighters when Zuffa</p> <p>5 learned that the fighter had been injured after a</p> <p>6 fight; is that right?</p> <p>7 A. Correct.</p> <p>8 Q. And so if a fighter was injured after a</p> <p>9 fight, Zuffa would find out about it and then</p> <p>10 automatically issue the fighter an extension of six</p> <p>11 months or longer; is that right?</p> <p>12 A. I don't know what the duration of time was.</p> <p>13 Q. Okay. But they would get an extension of</p> <p>14 some length, some number of months?</p> <p>15 A. I believe if you had an injury, it was</p> <p>16 normally an open extension, because Tracy -- when I</p> <p>17 said, hey, Rich Franklin is going to fight on this</p> <p>18 date, it's like, well, he was sent an injury</p> <p>19 extension letter on this date, how long do you want</p> <p>20 to do it. And I would always just do it for the</p> <p>21 period of time in between fights.</p> <p>22 Q. I see. So --</p> <p>23 A. I would never ever personally max out any</p> <p>24 length of it. If he was out for two months and then</p> <p>25 he's going to fight, that's -- I go send it two</p>	<p style="text-align: right;">412</p> <p>1 SILVA</p> <p>2 across the board, okay, you're injured so it's six</p> <p>3 months.</p> <p>4 Q. Okay.</p> <p>5 A. And I would tend to go towards the lower</p> <p>6 side of how long you're out.</p> <p>7 Q. So just so I'm clear, Zuffa finds out that a</p> <p>8 fighter is injured the day after a fight, it</p> <p>9 automatically issues an injury extension to that</p> <p>10 fighter even if that fighter hasn't been offered</p> <p>11 another fight; is that right?</p> <p>12 A. Correct. That one, that was not always the</p> <p>13 policy, and I -- that's why I had to ask those</p> <p>14 multiple people and send e-mail, because I asked</p> <p>15 what's this about and -- and Clare was the one</p> <p>16 letting me know because she was handling medicals at</p> <p>17 the time, and saying, you know, Clare, yeah, it's --</p> <p>18 he got injured -- I called up about that and she's</p> <p>19 like, yeah, when we get -- when a fighter has a</p> <p>20 serious enough injury that he could not compete</p> <p>21 for -- you know, it's not going to be like a black</p> <p>22 eye or anything, it would have to be something that</p> <p>23 would keep him out of competition for a -- a while</p> <p>24 that they would generate an injury extension.</p> <p>25 Q. And you said the policy changed at some</p>
<p style="text-align: right;">411</p> <p>1 SILVA</p> <p>2 months.</p> <p>3 Q. So it ends when he fights or it ends --</p> <p>4 A. Yes.</p> <p>5 Q. -- when he announces to you that he's ready</p> <p>6 to fight?</p> <p>7 A. When he fights.</p> <p>8 Q. Okay. So let's say he's injured on</p> <p>9 January 1st and he announces to you that he's ready</p> <p>10 to fight on March 1st, and he fights on May 1st. So</p> <p>11 the injury extension is from January 1st to May 1st;</p> <p>12 is that right?</p> <p>13 A. I mean, it's also at my discretion. And</p> <p>14 that's why Tracy would ask me rather than just</p> <p>15 automatically setting it at a date. I would always</p> <p>16 try to be reasonable.</p> <p>17 If it turns out that I can, if he goes, I'm</p> <p>18 ready to go and I can fight, and I just don't have a</p> <p>19 fight lined up for him, I'm not going to make him do</p> <p>20 it for a long time. I would go, all right, well,</p> <p>21 give him this and just try to -- the main thing of it</p> <p>22 was just really, well, give us a fair amount of time</p> <p>23 to get him the fights that we owe him.</p> <p>24 That's why she checked with me in between</p> <p>25 each and every one, because it wasn't just straight</p>	<p style="text-align: right;">413</p> <p>1 SILVA</p> <p>2 point in time. So obviously in November of 2012 the</p> <p>3 policy, as you just described it --</p> <p>4 A. Right.</p> <p>5 Q. -- was in place?</p> <p>6 A. Correct. And I don't know how long that was</p> <p>7 before I became aware of it.</p> <p>8 Q. What was the policy before that?</p> <p>9 A. I don't -- I just was not aware of that.</p> <p>10 Usually injury extension would be either like I offer</p> <p>11 a fighter a fight and he would say no, I can't</p> <p>12 because I'm injured, or his manager would just call</p> <p>13 and let me know, hey, just letting you know he -- he</p> <p>14 injured himself.</p> <p>15 So somehow it became part of the medical</p> <p>16 process after a fight, when they examined the fighter</p> <p>17 and saw no, he's actually got a serious injury, we're</p> <p>18 going to -- it's impossible for him to accept a</p> <p>19 fight. So we're going to put out -- like, say if he</p> <p>20 fought every four months and he could fight within</p> <p>21 that four-month in -- window, there's a lot of them</p> <p>22 where I said no extension.</p> <p>23 Q. Before November 2012, though, it looks like</p> <p>24 afterwards there's automatic extension.</p> <p>25 A. No. But if they're open, which means</p>

<p style="text-align: right;">414</p> <p>1 SILVA</p> <p>2 there's not a time, they're just -- they'll send them</p> <p>3 an extension letter, but there's not a date because</p> <p>4 they don't know how long it will take him to recover,</p> <p>5 so they're just going, we're informing you that</p> <p>6 you're getting an injury extension and there is no</p> <p>7 date attached. That's why Tracy, when I say, hey,</p> <p>8 he's fighting, oh, there is an injury extension on</p> <p>9 him, what time do you want that to be.</p> <p>10 Q. Okay. But --</p> <p>11 A. And there's a decent amount of them where</p> <p>12 there's like no time. It didn't heal -- it healed</p> <p>13 quick, he fought within a regular window of time.</p> <p>14 Q. So they get an injury extension letter, but</p> <p>15 that, in some cases, did not extend the term of the</p> <p>16 contract?</p> <p>17 A. Yes. It was just letting -- making them</p> <p>18 aware of like, look, we know you're injured, this</p> <p>19 takes you out for a certain amount of time, we</p> <p>20 reserve the right to do this. But there's definitely</p> <p>21 times where it didn't -- if he could turn around --</p> <p>22 some people heal quickly, some injuries are not as</p> <p>23 serious as they initially thought. Some guys could</p> <p>24 turn around fast, there's no reason to extend them.</p> <p>25 Q. Just so I'm clear, prior to 2012 there was a</p>	<p style="text-align: right;">416</p> <p>1 SILVA</p> <p>2 So somebody smartly go, wait, we are aware</p> <p>3 of this injury. They get checked out after the fight</p> <p>4 and they do, why would that be any different than us</p> <p>5 finding out any other way.</p> <p>6 Q. So you're telling me that there were</p> <p>7 occasions where you were watching an interview with a</p> <p>8 fighter and during that interview you learned</p> <p>9 something you didn't know --</p> <p>10 A. Yeah.</p> <p>11 Q. -- that the fighter broke his arm or</p> <p>12 something, was injured during the -- the fight or</p> <p>13 injured in some other way, training, you would then</p> <p>14 cause an injury extension letter to be generated and</p> <p>15 sent to that fighter?</p> <p>16 A. Well, I would contact them and verify. I</p> <p>17 would always ask them first. It's like, and why am I</p> <p>18 finding it out this way. But there -- yeah, there</p> <p>19 was a surprising amount of times as to, like, why</p> <p>20 would you say this to everybody else but not us.</p> <p>21 Q. Okay. So they were telling somebody,</p> <p>22 telling the public, telling some reporter --</p> <p>23 A. Yeah.</p> <p>24 Q. -- that they were injured. You would call</p> <p>25 them up and verify them. And if they confirmed that</p>
<p style="text-align: right;">415</p> <p>1 SILVA</p> <p>2 different policy and injury extension letters were</p> <p>3 not automatically generated if Zuffa had learned</p> <p>4 after a fight that a fighter was injured; is that</p> <p>5 right?</p> <p>6 A. It started happening at a certain time.</p> <p>7 When it did, I don't know because I'm not in the</p> <p>8 medical department. But this is the first time</p> <p>9 somebody brought it to my attention, so I inquired</p> <p>10 into it. I don't know how long that had been</p> <p>11 implemented before I found out about it.</p> <p>12 Q. Okay. But the prior policy was that an</p> <p>13 injury extension, under your understanding, would</p> <p>14 only be given if a fighter or his representative</p> <p>15 called you up and said, I'm injured, or if a</p> <p>16 fighter's -- was offered a fight and turned it down</p> <p>17 on the -- on the basis that he claimed to be injured?</p> <p>18 A. Right. Well, the point of it was that when</p> <p>19 you become made aware of an injury, that you could do</p> <p>20 it. If I saw an interview, which has happened, I saw</p> <p>21 an interview with a fighter where his manager didn't</p> <p>22 contact me, he didn't contact me, but he's just</p> <p>23 relaying, it's like, yeah, I broke my arm in a fight,</p> <p>24 it's like, dude, why don't you tell me you got an</p> <p>25 injury, now I'm aware of it, I'm going to do this.</p>	<p style="text-align: right;">417</p> <p>1 SILVA</p> <p>2 they were injured, you would then cause an injury</p> <p>3 extension letter to be sent to the fighter?</p> <p>4 A. Correct.</p> <p>5 Q. And injury extension letters would then</p> <p>6 extend the term of the contract; correct?</p> <p>7 A. But their injuries, as I said, most of the</p> <p>8 time I believe were open, so there's no set term on</p> <p>9 them. It would be done -- the term would be set</p> <p>10 after the fact once we've see how long they're</p> <p>11 actually out for.</p> <p>12 Q. Okay. But at some point the term would be</p> <p>13 set and a contract that initially had the term of</p> <p>14 30 months would be 30 months plus whatever amount of</p> <p>15 time you added for the injury extension; correct?</p> <p>16 A. Correct, if there was any time extension.</p> <p>17 Q. All right. You can put that document aside.</p> <p>18 MR. CRAMER: Like to mark the next</p> <p>19 document as Silva Exhibit 45.</p> <p>20 (Silva Deposition Exhibit 45 marked for</p> <p>21 identification.)</p> <p>22 Q. All right. This is a two-page series of</p> <p>23 e-mails with the Bates range ZFL-2536288 through 289.</p> <p>24 It's a June 2012 e-mail exchange between Tracy Long</p> <p>25 and UFC fighter Matt Wiman that Tracy Long forwarded</p>

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<p style="text-align: right;">418</p> <p>1 SILVA</p> <p>2 to you and Mersch; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And Wiman writes at the bottom of the</p> <p>5 first page, to Long, subject, "UFC on Fuel Bout</p> <p>6 Agreement/Cleared to Compete (Wiman). And he says:</p> <p>7 "Hey Tracy, I'm a little confused about my extension.</p> <p>8 Can you explain it in simpler terms to me. I was</p> <p>9 only injured for 2 to 3 months and the letter</p> <p>10 says" -- "states an eight month extension."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. All right. And then Long sends you an</p> <p>14 e-mail, and forwards this to you, and -- I'm sorry,</p> <p>15 Long -- there's an e-mail on June 18, 2012, at</p> <p>16 6:27 p.m. from Long, and she wrote: "Joe Silva gave</p> <p>17 me the time-frame. I believe it is based on when you</p> <p>18 last fought and when you will fight."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. "You last fought on October 1, 2011. You</p> <p>22 are now scheduled to fight on September 29, 2012."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And so he says: "So all the months I'm</p>	<p style="text-align: right;">420</p> <p>1 SILVA</p> <p>2 give me. So I was like, yeah, I need that time</p> <p>3 difference for as many times as I've tried to get you</p> <p>4 a fight and you don't fight.</p> <p>5 Q. Is it fair to say that in this particular</p> <p>6 instance you did not offer Wiman a fight between</p> <p>7 October 1, 2011, and September 29, 2012, other than</p> <p>8 the fight he was scheduled to fight in September</p> <p>9 of 2012?</p> <p>10 A. I don't recall, because I've made thousands</p> <p>11 of matches between today and then. But I just know</p> <p>12 definitely with Matt Wiman it was constantly an issue</p> <p>13 trying to get him fights, trying to get him active</p> <p>14 and continually have him pull out. Pull out injured,</p> <p>15 change his mind about when he could come back and</p> <p>16 fight.</p> <p>17 So, yeah, it was particularly problematic</p> <p>18 in -- in trying to get him a fight and honor his</p> <p>19 contract.</p> <p>20 Q. Now, he says: "All the months I'm training</p> <p>21 and waiting patiently are not counting."</p> <p>22 So presumably, in his mind, he was training</p> <p>23 and waiting to fight, and not being given an offer of</p> <p>24 a fight until September 29, 2012. Was he lying?</p> <p>25 MR. ISAACSON: Objection -- objection to</p>
<p style="text-align: right;">419</p> <p>1 SILVA</p> <p>2 training and waiting patiently are not counted? This</p> <p>3 is because there's so many fighters and you all have</p> <p>4 to honor your contracts?"</p> <p>5 So let me just ask you about this. So is</p> <p>6 Long accurately recounting what you told Long about</p> <p>7 how the injury extension should go?</p> <p>8 A. Yes.</p> <p>9 Q. And so even though he was only injured for</p> <p>10 two to three months, you, following the Zuffa policy,</p> <p>11 gave him an eight-month extension?</p> <p>12 A. He was extended longer. It was not as his</p> <p>13 e-mail made it seem. There was always problems with</p> <p>14 Matt Wiman. I believe he's still under contract and</p> <p>15 has not fought for years because he continually says</p> <p>16 he's injured but he will be back and he will fight.</p> <p>17 And we'll check in on him. And he's like, no, no, I</p> <p>18 don't want to fight, I'm still dealing with issues,</p> <p>19 but one day I'll be back. And so he was just kind of</p> <p>20 a screwy guy that way.</p> <p>21 So I would try to get him fights and he</p> <p>22 would adjust or change, I don't want to fight at that</p> <p>23 time, at that place or there.</p> <p>24 So this was -- this looked soon as I could</p> <p>25 get him a fight under the conditions that he would</p>	<p style="text-align: right;">421</p> <p>1 SILVA</p> <p>2 form. Calls for speculation. Argumentative.</p> <p>3 A. Yeah, there's a lot of things I disagree</p> <p>4 with Matt Wiman about. So that he put it in an</p> <p>5 e-mail does not mean that I agree with it.</p> <p>6 Q. Okay. But it's fair to say that the way you</p> <p>7 enacted the Zuffa extension policy, you extended his</p> <p>8 contract from the moment you learned of his injury to</p> <p>9 the moment of his next fight; is that fair?</p> <p>10 A. Yes. It usually goes from the last time</p> <p>11 that you fought -- say if we're trying to have a</p> <p>12 four-month window normally, would be ideal, if</p> <p>13 everybody could do. So you -- you built that period</p> <p>14 of time, you know, to get him a fight in four months,</p> <p>15 you have to go from the period of time the last time</p> <p>16 he fought, four months from there, so that's where it</p> <p>17 starts.</p> <p>18 Now, I said, if you fall within that,</p> <p>19 usually it's like no, this is just normal time. But</p> <p>20 if you go way over that, then I may elect to do it</p> <p>21 longer.</p> <p>22 And sometimes, as we talked about with the</p> <p>23 fluctuations in fighters returning, fighters going</p> <p>24 out, there's times when I can get you fights faster</p> <p>25 and times when it could take longer. Especially,</p>

<p style="text-align: right;">422</p> <p>1 SILVA</p> <p>2 he's a 155-pound fighter in our most -- that's the</p> <p>3 biggest division we have, the most populace division,</p> <p>4 and he was a fighter who was quite often averse to</p> <p>5 taking anything less than full training camp fights.</p> <p>6 So where somebody else might have been able to be</p> <p>7 accommodated quicker, it's like if it's not under the</p> <p>8 exact conditions I want, then I want no part of it,</p> <p>9 and it was harder to get him a fight.</p> <p>10 Q. Okay. Put that document aside.</p> <p>11 MR. CRAMER: I'm marking the next document</p> <p>12 as Silva Exhibit 46.</p> <p>13 (Silva Deposition Exhibit 46 marked for</p> <p>14 identification.)</p> <p>15 Q. Silva 46 is a series of e-mails bearing the</p> <p>16 Bates range ZFL-2479790 through 9791. This is a</p> <p>17 September 2014 e-mail exchange regarding UFC fighter</p> <p>18 Junior dos Santos; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And I'd like to draw your attention</p> <p>21 initially to the e-mail -- the first e-mail at the</p> <p>22 bottom from Ms. Long to -- whoever it's to -- but</p> <p>23 the -- the text I'd like to draw your attention to is</p> <p>24 on the second page. She says: "In addition,</p> <p>25 attached please find a Notice of Extension of the</p>	<p style="text-align: right;">424</p> <p>1 SILVA</p> <p>2 fight will be available for them on that date. I'm</p> <p>3 ok with 7 months though."</p> <p>4 A. Yes.</p> <p>5 Q. And you wrote that?</p> <p>6 A. Correct. But even though we could not --</p> <p>7 for some, like for JDS being a heavyweight and</p> <p>8 there's more limited options for him, it could be</p> <p>9 like, all right, well, I could have gotten you a</p> <p>10 fight earlier, you were unavailable then, here's</p> <p>11 where I will have a fight. It's not my fault that</p> <p>12 you're injured. So the contract provides that you</p> <p>13 could extend it through that. But I wasn't going to</p> <p>14 push it. It's like, they want ten months, I'll be</p> <p>15 reasonable about it, that's fine, but just because</p> <p>16 you go, well, now this is when I want to fight,</p> <p>17 especially in something like a heavyweight division,</p> <p>18 doesn't mean that I'm going to have anything</p> <p>19 available to you at that particular date.</p> <p>20 Q. So your understanding of the policy and the</p> <p>21 practice was generally to run the injury time from</p> <p>22 the moment of your notification of the injury or the</p> <p>23 moment of the injury through the next fight but</p> <p>24 sometimes you altered that policy?</p> <p>25 A. Yeah, I want -- you know, if somebody makes</p>
<p style="text-align: right;">423</p> <p>1 SILVA</p> <p>2 Term of your Promotional and Ancillary Rights</p> <p>3 Agreement. It is being sent to you upon notification</p> <p>4 that you have before cleared to compete in</p> <p>5 professional mixed martial arts events. After</p> <p>6 careful consideration, Zuffa elects to extend the</p> <p>7 Term of your Agreement for a period of ten (10)</p> <p>8 months. See attached correspondence."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. All right. And then Ana Claudia Guedes</p> <p>12 responds to Ms. Long, copies Mersch and says: "Thank</p> <p>13 you, Tracy. We will get the bout agreement executed</p> <p>14 ASAP. Junior's injury was in May and he was cleared</p> <p>15 for a December fight - that is a 7 month injury</p> <p>16 period. Per the terms of the agreement, that is the</p> <p>17 extension option available to Zuffa at this time, not</p> <p>18 10 months. Please provide a revised extension letter</p> <p>19 to that effect."</p> <p>20 And then Mersch writes on September 20,</p> <p>21 2014: "Do we disagree with her assessment that JDS</p> <p>22 actually injury time should be 7 months versus 10?"</p> <p>23 And then you said to Mersch, and others</p> <p>24 internally, on September 20, 2014: "Just because</p> <p>25 someone is cleared by a date doesn't mean that a</p>	<p style="text-align: right;">425</p> <p>1 SILVA</p> <p>2 a good point, you know, I try to be reasonable about</p> <p>3 it. The hard thing is there are so many injuries,</p> <p>4 you would have so many come up, that you just go, all</p> <p>5 right, well, this seems to make sense. There's times</p> <p>6 I'd ask Tracy to check my math on months, it's like,</p> <p>7 is this reasonable. And there's times where she'd</p> <p>8 correct me, it's like, no, it wouldn't be that many</p> <p>9 months. Like, okay.</p> <p>10 Or if the fighter's manager contested it,</p> <p>11 and go, no, we think that's too much, I'd review it</p> <p>12 again and go, okay, you're right, she's saying it</p> <p>13 should be seven months, I'm fine with seven months.</p> <p>14 MR. CRAMER: All right. I think we're</p> <p>15 running out of tape time, so let's take a</p> <p>16 break.</p> <p>17 THE VIDEOGRAPHER: Off the record at 5:32.</p> <p>18 (Recess taken at 5:32 p m., proceedings</p> <p>19 resumed at 5:40 p m.)</p> <p>20 THE VIDEOGRAPHER: Here begins Media</p> <p>21 Number 6 in the video-recorded deposition of</p> <p>22 Joseph Silva. We're back on the record at</p> <p>23 5:40.</p> <p>24 BY MR. CRAMER:</p> <p>25 Q. If -- I just want to understand Zuffa's</p>

<p style="text-align: right;">426</p> <p>1 SILVA</p> <p>2 policy with regarding to extending the terms of</p> <p>3 contracts if fighters turn down opponents, turn down</p> <p>4 fights.</p> <p>5 A. Yes.</p> <p>6 Q. So my understanding is that if Zuffa offers</p> <p>7 a fighter a bout, and the fighter doesn't want, for</p> <p>8 whatever reason, to accept that bout, the Zuffa</p> <p>9 contract and policy would be to extend the fighter's</p> <p>10 contract term for six months or however long the</p> <p>11 fighter is unwilling to compete; is that right?</p> <p>12 A. It sounds right.</p> <p>13 Q. Okay. Are there any reasons for turning</p> <p>14 down an opponent that would not result in a contract</p> <p>15 extension?</p> <p>16 A. I mean, I discuss with every fight that I</p> <p>17 make, it's a discussion about who I think would be</p> <p>18 good to -- from the fight, they may have</p> <p>19 alternatives, and quite often we can work it out.</p> <p>20 But there -- there's situations where you</p> <p>21 have, you know, I could offer you three possible</p> <p>22 opponents because that's what I have available, three</p> <p>23 that would make sense for you to fight, and other</p> <p>24 times like, if you want a fight within this time</p> <p>25 period, this is the only guy I have who -- who makes</p>	<p style="text-align: right;">428</p> <p>1 SILVA</p> <p>2 different reasons for not wanting to fight somebody</p> <p>3 in particular.</p> <p>4 Q. What does it mean for a fighter to tell you</p> <p>5 that fighting a particular fight would not increase</p> <p>6 their stature?</p> <p>7 A. There is some where you could see that they</p> <p>8 have a point, but you -- you would look at it. I</p> <p>9 said, I try to make fights, I don't normally offer</p> <p>10 fights that don't make sense that I don't have, well,</p> <p>11 here's why, here's why I think this is a good fight</p> <p>12 for you.</p> <p>13 There are some fights where that doesn't</p> <p>14 matter to the fighter. Like say, they've been</p> <p>15 inactive and they just really want to fight and get</p> <p>16 back there. I might go, well, this is the only guy I</p> <p>17 have for that, and he's not ranked, you are. So I</p> <p>18 could see where maybe they would not want to do it,</p> <p>19 but they go, yeah, I want it, because all I care</p> <p>20 about is fighting --</p> <p>21 Q. Right.</p> <p>22 A. -- I just need to be active, if it's not a</p> <p>23 big one, hopefully the next one will be bigger.</p> <p>24 Like, okay.</p> <p>25 Some guys, there's something in them that</p>
<p style="text-align: right;">427</p> <p>1 SILVA</p> <p>2 any sense for you to fight.</p> <p>3 And so when I had options to give, I'd like</p> <p>4 to do it. Because it's still getting somebody a</p> <p>5 fight. But there was many times where you just did</p> <p>6 not have that option. In that particular weight</p> <p>7 class, you had a particular spot, and it's like, this</p> <p>8 is the one that I have.</p> <p>9 Or you're saying I want a fight on this</p> <p>10 show, but I've done every fight for that show except</p> <p>11 for one fight. I have a guy who's willing to fight</p> <p>12 you on that show, but you're not willing to fight</p> <p>13 him. Well, I owe that guy a fight and I only have</p> <p>14 one fight on that card, you -- you're going to have</p> <p>15 to wait then, and -- and I've got to get this guy</p> <p>16 who's willing to fight a fight.</p> <p>17 Q. What are some reasons that fighters have</p> <p>18 told you that they are turning down fights for?</p> <p>19 A. Some don't like the stylistic match-up.</p> <p>20 Some don't feel that it increases their stature to</p> <p>21 fight a particular fighter. Some may feel like that</p> <p>22 they're not at that opponent's level yet, and want</p> <p>23 a -- what they consider to be a lower-level opponent.</p> <p>24 So there's all kinds of reasons that are not</p> <p>25 necessarily consistent. Different people have</p>	<p style="text-align: right;">429</p> <p>1 SILVA</p> <p>2 spooks them. In MMA, a lot of guys have traveled</p> <p>3 around maybe the world to train, and so you train a</p> <p>4 couple times with somebody, maybe you saw something</p> <p>5 in training that spooked you, and you're like, yeah,</p> <p>6 I don't think that I could beat that guy.</p> <p>7 What's interesting, a lot of those times</p> <p>8 they're incorrect. I've had guys who are initially</p> <p>9 really worried about opponents and actually did very</p> <p>10 well against them.</p> <p>11 MR. CRAMER: All right. I'd like to have</p> <p>12 the next document marked as Silva Exhibit 47.</p> <p>13 (Silva Deposition Exhibit 47 marked for</p> <p>14 identification.)</p> <p>15 Q. This is a series of e-mails bearing the</p> <p>16 Bates range ZUF-00296965 through 971. And I'd like</p> <p>17 you to turn to page 5 of these e-mails. In</p> <p>18 particular, the e-mail at the top of page 5. It's an</p> <p>19 April 2010 e-mail from you to Nima Safapour.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Who is Nima Safapour?</p> <p>23 A. That was the manager of Vladimir</p> <p>24 Matyushenko.</p> <p>25 Q. Vladimir Matyushenko?</p>

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<p style="text-align: right;">430</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. That's M-A-T-Y-U-S-H-E-N-K-O.</p> <p>4 And he's known as Vlad to some?</p> <p>5 A. I usually call him Vladimir, but I think</p> <p>6 Nima would refer to him as Vlad.</p> <p>7 Q. Okay. As Vlad.</p> <p>8 And this is an e-mail that you sent; is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. All right. And you say to Nima on April 21,</p> <p>12 2010: "That is the fight I am offering. You don't</p> <p>13 really get multiple choices. Unless he has some</p> <p>14 convincing reason for not accepting the fight, like a</p> <p>15 verifiable injury his contract would be extended and</p> <p>16 he would have to wait until another show to fight for</p> <p>17 turning down a legitimate opponent."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And what you were stating was essentially</p> <p>21 Zuffa's policy and -- and its contractual rights with</p> <p>22 regard to fighters turning down fights; is that</p> <p>23 right?</p> <p>24 MR. ISAACSON: Objection to form.</p> <p>25 Q. Let me rephrase.</p>	<p style="text-align: right;">432</p> <p>1 SILVA</p> <p>2 really get multiple choices."</p> <p>3 Is it correct that it was not Zuffa's</p> <p>4 practice or policy to give fighters multiple choices</p> <p>5 on who they fight?</p> <p>6 A. That's incorrect.</p> <p>7 Q. It was incorrect; sometimes you did give</p> <p>8 them options?</p> <p>9 A. Correct, if I had options.</p> <p>10 Q. If you had options, you would give them; if</p> <p>11 you didn't, you wouldn't?</p> <p>12 A. Correct.</p> <p>13 Q. Let's say a fighter doesn't want to fight</p> <p>14 with the UFC anymore and -- so they're just unwilling</p> <p>15 to fight. They say, I don't want to fight with the</p> <p>16 UFC, I want to fight somewhere else, but they're</p> <p>17 still under contract with Zuffa, and they keep</p> <p>18 turning down fights. Would it be Zuffa's policy to</p> <p>19 invoke this provision to keep them under exclusive</p> <p>20 contract with Zuffa?</p> <p>21 A. It would -- the decision would be ultimately</p> <p>22 up to Dana and Lorenzo. It's like, what do you want</p> <p>23 to do, this is his stance, and they would make that</p> <p>24 decision.</p> <p>25 Q. It did happen from time to time that there</p>
<p style="text-align: right;">431</p> <p>1 SILVA</p> <p>2 What were you attempting to convey to</p> <p>3 Ms. Safapour in this e-mail?</p> <p>4 A. He wanted to fight on that show, in the</p> <p>5 fight that I had available, light heavyweight,</p> <p>6 similar to heavyweight, it's the second smallest</p> <p>7 weight class we have as far as talent. So when</p> <p>8 you're a good guy at that, there's only so many of</p> <p>9 those guys who've already fought each other, it</p> <p>10 greatly limits who are the credible guys you can</p> <p>11 fight.</p> <p>12 It's like, for you to fight on this show,</p> <p>13 the guy that I have for you to fight is Jon Jones.</p> <p>14 That's the option that I have. I don't have a bunch</p> <p>15 of 205 legitimate guys.</p> <p>16 Vlad was a veteran and fought in a bunch of</p> <p>17 big shows at -- at that time, so that was the kind of</p> <p>18 opponent that made sense for him to fight. And it's</p> <p>19 like, if you will not fight Jon Jones, you're going</p> <p>20 to have to fight in another show.</p> <p>21 Q. You write to Ms. Safapour: "That's the</p> <p>22 fight I'm offering" --</p> <p>23 A. Mister.</p> <p>24 Q. I'm sorry, Mr. Safapour. Thank you.</p> <p>25 "That's the fight I'm offering. You don't</p>	<p style="text-align: right;">433</p> <p>1 SILVA</p> <p>2 were fighters who said, look, I just don't want to be</p> <p>3 with UFC anymore; right?</p> <p>4 A. Yeah. And I believe that there have been</p> <p>5 people who were released.</p> <p>6 Q. Fair to say that if Zuffa doesn't want to</p> <p>7 release them, it doesn't have to in that instance;</p> <p>8 correct?</p> <p>9 A. I don't believe so.</p> <p>10 Q. In other words, under Zuffa's contracts, if</p> <p>11 a fighter didn't want to fight for the UFC anymore</p> <p>12 but still was under the exclusive contract with</p> <p>13 Zuffa, the fighter would -- the fighter could not get</p> <p>14 out of the contract simply by turning down fights;</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. All right. All right. I asked you earlier,</p> <p>18 another topic, some questions about pay-per -- I'm</p> <p>19 sorry, some questions about compensation other than</p> <p>20 win and show. I want to ask you some other questions</p> <p>21 about that.</p> <p>22 So in addition to show and win money, there</p> <p>23 were other ways in which fighters were compensated by</p> <p>24 Zuffa; correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">434</p> <p>1 SILVA</p> <p>2 Q. Okay. Certain fighters received a share of</p> <p>3 Pay-Per-View revenues when they defend -- when</p> <p>4 they -- I'm sorry.</p> <p>5 Certain fighters received a share of</p> <p>6 Pay-Per-View revenues; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Who was offered at Zuffa a share of</p> <p>9 Pay-Per-View revenues?</p> <p>10 A. That would be up to Dana and Lorenzo who</p> <p>11 they're willing to give a share of Pay-Per-View</p> <p>12 revenues to.</p> <p>13 Q. Is it fair to say that only champions</p> <p>14 defending their title were given a share of</p> <p>15 Pay-Per-View revenues at the UFC?</p> <p>16 A. No.</p> <p>17 Q. There were others?</p> <p>18 A. There were others. I think if you would</p> <p>19 become a -- a big attraction even without a title,</p> <p>20 you could still be worthy of Pay-Per-View, but it was</p> <p>21 rarer.</p> <p>22 Q. It was rare.</p> <p>23 Most of the times that fighters were offered</p> <p>24 a share of the Pay-Per-View revenues, they were</p> <p>25 defending a title; correct?</p>	<p style="text-align: right;">436</p> <p>1 SILVA</p> <p>2 Q. And was that -- that's just for her or that</p> <p>3 was -- that was not a general policy?</p> <p>4 A. I think most of them were that way, is that</p> <p>5 you needed to be a -- a champion defending your belt</p> <p>6 to get it. Not -- there were some exceptions, but</p> <p>7 for the majority.</p> <p>8 Q. Okay. You can put that aside.</p> <p>9 Is it fair to say that fighters frequently</p> <p>10 asked for Pay-Per-View cuts in compensation</p> <p>11 negotiations?</p> <p>12 A. Some do. There's actually quite a few</p> <p>13 fighters who did not care about that because they</p> <p>14 felt that they were not marketable enough that it was</p> <p>15 not enticing to them because they weren't really</p> <p>16 convinced they were going to sell a bunch of</p> <p>17 Pay-Per-Views.</p> <p>18 If you were somebody who -- who had a</p> <p>19 demonstrable popularity, then you feel, it's like</p> <p>20 this is going to be a windfall for me, I will sell a</p> <p>21 bunch of Pay-Per-Views. Not everybody felt they</p> <p>22 would. Some kind of saw themselves as more</p> <p>23 workmanlike, it's like, look, I put in my time and I</p> <p>24 work hard and this and that, I'm not a fan favorite,</p> <p>25 who cares.</p>
<p style="text-align: right;">435</p> <p>1 SILVA</p> <p>2 A. I'd say most, yes.</p> <p>3 MR. CRAMER: I'd like to mark as Silva</p> <p>4 Exhibit 48 the next document.</p> <p>5 (Silva Deposition Exhibit 48 marked for</p> <p>6 identification.)</p> <p>7 Q. This is an e-mail from Shelby to White and</p> <p>8 Mr. Silva -- I'm sorry. It's just an e-mail from</p> <p>9 Fertitta, Lorenzo Fertitta, to Shelby, cc'd to White</p> <p>10 and Silva --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- dated Thursday, March 13, 2014. The</p> <p>13 subject is Holly Holm, and it bears the Bates number</p> <p>14 ZFL-1005485.</p> <p>15 At the top Mr. Fertitta says: "We can get</p> <p>16 something done. For ppv bonus she must be</p> <p>17 defending."</p> <p>18 PPV bonus refers to Pay-Per-View bonus?</p> <p>19 A. Yes.</p> <p>20 Q. And was Mr. Fertitta correct that in order</p> <p>21 for Holly Holm to get a Pay-Per-View bonus, she had</p> <p>22 to be defending a title?</p> <p>23 A. He was saying that he was not willing to</p> <p>24 give her Pay-Per-View if she's not a champion</p> <p>25 defending her title.</p>	<p style="text-align: right;">437</p> <p>1 SILVA</p> <p>2 Q. Okay. So I think I asked you briefly about</p> <p>3 this, but Zuffa also paid other kinds of</p> <p>4 discretionary bonuses?</p> <p>5 A. Correct.</p> <p>6 Q. In addition to win and show; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And by "discretionary," the -- these</p> <p>9 other bonuses that I'm going to ask you about, other</p> <p>10 than win and show, and potentially Pay-Per-View, they</p> <p>11 were not contractually required to pay structured or</p> <p>12 discretionary bonuses; correct?</p> <p>13 A. Correct.</p> <p>14 Q. All right. How were the -- how were these</p> <p>15 structured or discretionary bonuses determined?</p> <p>16 A. And you're not talking about like the</p> <p>17 end-of-the-night bonuses, you're talking about just</p> <p>18 like up and down -- because we had -- for every show</p> <p>19 you had, like, say \$50,000 bonus for performances of</p> <p>20 the night, for fight of the night, that both would</p> <p>21 get it, so that was standard on every show.</p> <p>22 Q. So every --</p> <p>23 A. So that was one kind of bonus.</p> <p>24 Q. So one kind of bonus is a fight-of-the-night</p> <p>25 bonus?</p>

<p style="text-align: right;">454</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 53 marked for</p> <p>3 identification.)</p> <p>4 Q. Silva 53 is an e-mail from you to Lorenzo</p> <p>5 Fertitta and Dana, Dana's BlackBerry e-mail address,</p> <p>6 dated November 24, 2008, and it has the Bates Number</p> <p>7 ZUF-00332586.</p> <p>8 This is an e-mail that you sent to Fertitta</p> <p>9 and Dana White on November 24, 2008; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. And the subject was "Money for Vera and</p> <p>12 Alves."</p> <p>13 A. Yeah. Alves, yes.</p> <p>14 Q. Alves. Okay.</p> <p>15 And these were Filipino fighters; is that</p> <p>16 right?</p> <p>17 A. No. Alves is Brazilian.</p> <p>18 Q. Okay. So Alves is Brazilian and Brandon</p> <p>19 Vera is Filipino; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. And Brandon Vera is one of the plaintiffs in</p> <p>22 this lawsuit; is that right?</p> <p>23 A. Correct.</p> <p>24 Q. Do you know all of the plaintiffs in this</p> <p>25 lawsuit -- do you know who they are?</p>	<p style="text-align: right;">456</p> <p>1 SILVA</p> <p>2 Q. Okay. And is it fair to say then that</p> <p>3 Alves's next fight was going to be for the title?</p> <p>4 A. Possibly likely. That -- that's what I</p> <p>5 would have liked to have happened.</p> <p>6 Q. Okay. I see. And then you write: "May you</p> <p>7 can offer him a 2 tier contract, with a higher path</p> <p>8 if he becomes champ. The good thing about those is</p> <p>9 it locks them in longer if they become champ."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. What did you mean by that?</p> <p>13 A. Well, now you're -- they're willing to</p> <p>14 extend into a longer deal because they're getting</p> <p>15 more money.</p> <p>16 Q. And why would you want to lock someone in</p> <p>17 for a longer deal if they become a champ?</p> <p>18 A. The benefits, as we've gone over multiple</p> <p>19 times, to having somebody under contract is that you</p> <p>20 can more easily promote fights long-term with them.</p> <p>21 Q. And you could ensure that if you became</p> <p>22 champ you'd have them locked up for a longer period</p> <p>23 of time; correct?</p> <p>24 A. Yes. That's what this -- the championship</p> <p>25 tier would do.</p>
<p style="text-align: right;">455</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. All right. And both Vera and Alves were UFC</p> <p>4 fighters?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you write: "Thiago" -- and</p> <p>7 that's Thiago Alves?</p> <p>8 A. Yes.</p> <p>9 Q. -- "is currently at 32K and 32K. He is on a</p> <p>10 7 fight win streak and is the number 1 contender to</p> <p>11 fight the winner of GSP versus B.J. Penn."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. So he was on a 32 show/32 win contract; is</p> <p>15 that right?</p> <p>16 A. Yes.</p> <p>17 Q. He'd -- he'd won seven in a row. Was that</p> <p>18 in the UFC?</p> <p>19 A. Yes.</p> <p>20 Q. And at that point he was the number one</p> <p>21 contender to fight GSP -- was that George St-Pierre?</p> <p>22 A. Yes.</p> <p>23 Q. The winner of GSP versus B.J. Penn, is that</p> <p>24 accurate at the top?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">457</p> <p>1 SILVA</p> <p>2 Q. It's better to lock him in before he becomes</p> <p>3 a champ than to allow him to become a champ and then</p> <p>4 potentially use that leverage to negotiate a better</p> <p>5 deal?</p> <p>6 A. I would say contractually it's good to have</p> <p>7 somebody under contract before fighting for a</p> <p>8 championship.</p> <p>9 Q. And that's what -- that's what Zuffa tried</p> <p>10 to do; is that right?</p> <p>11 A. Well, I offered that as -- and I don't</p> <p>12 actually remember what strategy they went with. What</p> <p>13 I'm -- I suggested to them, this is based on the</p> <p>14 Brandon Vera example beforehand, that you have some</p> <p>15 fighters who will come to you, as Brandon Vera did,</p> <p>16 and go, I'm going to be your next champion and</p> <p>17 because of that I deserve a high level contract;</p> <p>18 it's -- it's just a no-brainer, it's going to happen,</p> <p>19 I will be a champion. And then they don't perform at</p> <p>20 that level. It's like, you were willing to pay them</p> <p>21 that much money because they promised they would do</p> <p>22 these things, you thought they would do those things,</p> <p>23 and they didn't, and now you're stuck with this high</p> <p>24 contract.</p> <p>25 That's why for Thiago, I think -- thought</p>

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<p style="text-align: right;">458</p> <p>1 SILVA</p> <p>2 Thiago has the possibility to fight for the title,</p> <p>3 the possibility to be a champion, and let's structure</p> <p>4 it so that if he does those things, he is rewarded,</p> <p>5 but if he does not accomplish those things, that he's</p> <p>6 not then overpaid for where his situation is at.</p> <p>7 Q. Okay. I asked you a couple questions</p> <p>8 earlier today about the right of first negotiation</p> <p>9 that Zuffa had in its contracts?</p> <p>10 A. Yes.</p> <p>11 Q. This is the 90-day period after the end of a</p> <p>12 fighter's term that Zuffa has exclusive right to</p> <p>13 negotiate with a fighter?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And during that period, the fighter</p> <p>16 doesn't have the ability to field offers from other</p> <p>17 promotions; is that right?</p> <p>18 A. Yeah, not officially.</p> <p>19 Q. Not officially.</p> <p>20 At least they're not officially allowed to</p> <p>21 talk to other promotions during that period; correct?</p> <p>22 A. Correct.</p> <p>23 Q. Why did the UFC need that exclusive</p> <p>24 negotiation period in your understanding, or want it?</p> <p>25 A. You'd -- you'd have to ask the lawyers who</p>	<p style="text-align: right;">460</p> <p>1 SILVA</p> <p>2 Strikeforce?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Do you know who Leland Labarre is?</p> <p>5 A. I do.</p> <p>6 Q. Who is he?</p> <p>7 A. Josh Barnett's manager.</p> <p>8 Q. And Josh Barnett was a UFC fighter or</p> <p>9 Strikeforce fighter, or both?</p> <p>10 A. Both.</p> <p>11 Q. Okay. And Labarre says to Shelby and Mersch</p> <p>12 on November 14, 2011, in the third paragraph: "I'm</p> <p>13 disappointed with the aggressiveness of your</p> <p>14 position. As you know, a fight every 4 months or so</p> <p>15 would be typical for MMA fighters, whose career</p> <p>16 primes are generally short. Conversely, a 4-fight</p> <p>17 deal with a 5-year exclusive term is unheard of. The</p> <p>18 interpretation you have provided is simply</p> <p>19 unreasonable."</p> <p>20 Would you agree with Mr. Labarre's</p> <p>21 observation that the typical MMA fighter's career</p> <p>22 primes are generally short?</p> <p>23 A. No. Especially not for a heavyweight.</p> <p>24 Heavyweights fight longer than any other weight class</p> <p>25 because generally the things that decline first are</p>
<p style="text-align: right;">459</p> <p>1 SILVA</p> <p>2 drafted it.</p> <p>3 Q. Couldn't the UFC sit down with a fighter in</p> <p>4 good faith after the end of his or her contract and</p> <p>5 negotiate with them without this exclusive</p> <p>6 negotiation period?</p> <p>7 A. I didn't write the contract, so I don't</p> <p>8 know.</p> <p>9 Q. Okay. And we talked also about the right to</p> <p>10 match.</p> <p>11 A. Yes.</p> <p>12 Q. And that's a one-year period after the</p> <p>13 90-day exclusive negotiation period that Zuffa has</p> <p>14 the right to match any offer from another MMA</p> <p>15 promotion; correct?</p> <p>16 A. Correct.</p> <p>17 MR. CRAMER: All right. Like to mark next</p> <p>18 document as Silva Exhibit 54. Thank you.</p> <p>19 (Silva Deposition Exhibit 54 marked for</p> <p>20 identification.)</p> <p>21 Q. Silva 54 is a series of e-mails bearing the</p> <p>22 Bates range ZFL-2632951 to 2952. But the second page</p> <p>23 is blank. And the e-mail at the bottom is from</p> <p>24 Leland Labarre dated Monday, November 14 at 2011, to</p> <p>25 Sean Shelby and Michael Mersch, and the subject is</p>	<p style="text-align: right;">461</p> <p>1 SILVA</p> <p>2 speed and reflexes, which are depended upon by the</p> <p>3 smaller fighters. Look how long George Foreman</p> <p>4 fought. And his fighter that he's speaking about is</p> <p>5 a heavyweight.</p> <p>6 Q. All right. You can put that aside.</p> <p>7 MR. CRAMER: All right. I'd like to mark</p> <p>8 the next document as Silva Exhibit 55.</p> <p>9 (Silva Deposition Exhibit Number 55 marked</p> <p>10 for identification.)</p> <p>11 Q. Silva 55 is a series of e-mails that are on</p> <p>12 two pages bearing the Bates range ZFL-2642993 through</p> <p>13 2994. There is an e-mail at the middle of the page</p> <p>14 from Leo Khorolinsky to you, Mr. Silva.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And it's dated Sunday, January 27, 2008, and</p> <p>18 it's regarding Andrei.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Who's Leo Khorolinsky?</p> <p>22 A. He was the manager of Andrei Arlovski.</p> <p>23 Q. And Andrei Arlovski was a UFC fighter?</p> <p>24 A. Yes, he was.</p> <p>25 Q. Okay. And he is talking about an agreement</p>

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<p style="text-align: right;">462</p> <p>1 SILVA</p> <p>2 that you sent him. And towards the end of his e-mail</p> <p>3 to you he says: "As you are aware, as of March 1, it</p> <p>4 will have been almost a year since Andrei's last</p> <p>5 fight (as compared to the prior 12 month period in</p> <p>6 which he fought 4 times). It is extremely damaging</p> <p>7 to Andrei's career to be shelved for such a long</p> <p>8 period of time and he can't sign an agreement that</p> <p>9 could conceivably result in additional 6 months</p> <p>10 without a fight."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. What was he referring to?</p> <p>14 A. There was apparently a period of time that</p> <p>15 he had been inactive. I don't recall -- I know</p> <p>16 Andrei was a person who had issues with injuries in</p> <p>17 his career. Also, I believe there was a couple of</p> <p>18 circumstances where he did have scheduled fights and</p> <p>19 the opponents dropped out late notice.</p> <p>20 As I said earlier, heavyweight can be</p> <p>21 particularly problematic in finding -- if the initial</p> <p>22 opponent falls through and the other heavyweights are</p> <p>23 booked, no athletic commission is going to allow you</p> <p>24 to put a former champion like Andrei Arlovski against</p> <p>25 a UFC first-timer, somebody who doesn't have the</p>	<p style="text-align: right;">464</p> <p>1 SILVA</p> <p>2 A. That's possible.</p> <p>3 Q. And a fighter wouldn't want not to fight if</p> <p>4 he could fight for a 12-month period because that's a</p> <p>5 long time not to be fighting and to lose public</p> <p>6 prominence; correct?</p> <p>7 A. Especially if that's -- you know, he's not</p> <p>8 making that choice to do it.</p> <p>9 Now, there are fighters who simply choose,</p> <p>10 I'm burnt out, I'm tired, I need to step away, and</p> <p>11 they could see that as a very positive thing. But if</p> <p>12 you feel it's a situation that's out of your control,</p> <p>13 you didn't agree to that, then I definitely</p> <p>14 understand being upset about that.</p> <p>15 Q. Okay. And that would be a difficulty for a</p> <p>16 fighter if they wanted to fight for any MMA promotion</p> <p>17 but the MMA promotion wasn't offering them a fight or</p> <p>18 they couldn't fight for a year or more; is that</p> <p>19 right?</p> <p>20 A. Well, if they chose not to. If they made an</p> <p>21 agreement and said, under these provisions I choose</p> <p>22 to not -- you know, to allow -- if there's a</p> <p>23 championship clause or something, and I choose to sit</p> <p>24 it out, that's a choice they're making that they feel</p> <p>25 is in their best interest.</p>
<p style="text-align: right;">463</p> <p>1 SILVA</p> <p>2 experience. So there may have been issues where he</p> <p>3 did not fight as much as he or we wanted him to.</p> <p>4 He was a marketable heavyweight, so we'd</p> <p>5 want him to be active. And I don't remember exactly</p> <p>6 why he was not active at this time in 2008.</p> <p>7 Q. You wouldn't disagree with Mr. Khorolinsky</p> <p>8 saying that 12 months is a long time to be -- for a</p> <p>9 fighter to be shelved; correct?</p> <p>10 A. I would not agree with the term "shelved,"</p> <p>11 but yes, he would want -- he would want and we would</p> <p>12 want, it would be to our benefit to have him fighting</p> <p>13 sooner. You don't want fans forgetting about him,</p> <p>14 and he's a marketable heavyweight. He was --</p> <p>15 Q. Right.</p> <p>16 A. -- somebody who was well liked and in good</p> <p>17 shape. There is absolutely no reason we would not</p> <p>18 want Andrei Arlovski fighting.</p> <p>19 Q. So it would be not in the interests of the</p> <p>20 UFC to have a popular fighter to not fight for</p> <p>21 12 months; is that right?</p> <p>22 A. Correct.</p> <p>23 Q. And one of the reasons is that over the</p> <p>24 course of the 12 months, the fan interest could fall</p> <p>25 off because out of sight, out of mind; is that right?</p>	<p style="text-align: right;">465</p> <p>1 SILVA</p> <p>2 That's different than this situation, where</p> <p>3 Andrei is wanting to fight, I believe that we got him</p> <p>4 fights, due to circumstances beyond his control and</p> <p>5 our control, he did not get those fights, so I</p> <p>6 definitely would understand frustration in his case.</p> <p>7 Q. All right. You can put that document aside.</p> <p>8 MR. CRAMER: I'd like to mark as the next</p> <p>9 document Silva Exhibit 56.</p> <p>10 (Silva Deposition Exhibit 56 marked for</p> <p>11 identification.)</p> <p>12 Q. Silva 56 is a two-page document bearing the</p> <p>13 Bates range ZUF-00294337 through 338. This is a</p> <p>14 September 2009 e-mail exchange between you and Ariel</p> <p>15 Helwani; is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Ariel Helwani is an MMA journalist; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And it relates to Cro Cop, is that right, in</p> <p>21 part?</p> <p>22 A. Yes.</p> <p>23 Q. And Cro Cop is Mirko Cro Cop Filipovic; is</p> <p>24 that right?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">466</p> <p>1 SILVA</p> <p>2 Q. Okay. And Cro Cop, in September 2009, was</p> <p>3 under -- under contract with Zuffa; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. And before that, he had fought in Pride; is</p> <p>6 that right?</p> <p>7 A. Yes.</p> <p>8 Q. And Zuffa acquired Pride in 2007; is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. And so did Zuffa acquire the Cro Cop --</p> <p>12 Cro Cop contract with the Pride acquisition?</p> <p>13 A. Yes.</p> <p>14 Q. And back in 2009, Cro Cop was a big name</p> <p>15 fighter; is that right?</p> <p>16 A. Yeah, he was a well-known fighter.</p> <p>17 Q. He was one of Pride's most popular fighters?</p> <p>18 A. He -- yeah, he was -- he was a top Pride</p> <p>19 fighter.</p> <p>20 Q. And Helwani sends you an article at the</p> <p>21 bottom, Tuesday, September 2009, 4:05 p.m. and asked</p> <p>22 you whether Cro Cop been released.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And you say: "I don't see anything in that</p>	<p style="text-align: right;">468</p> <p>1 SILVA</p> <p>2 contract?</p> <p>3 A. Correct.</p> <p>4 MR. CRAMER: I'd like to mark the next</p> <p>5 document as Silva Exhibit 57.</p> <p>6 (Silva Deposition Exhibit 57 marked for</p> <p>7 identification.)</p> <p>8 Q. Silva 57 is a one-page text that was</p> <p>9 produced to us in this form, it has the Bates number</p> <p>10 ZFL-1874771. Excuse me.</p> <p>11 And in this text, you write to</p> <p>12 ██████████ on August 14, 2014. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know who the ██████ number is?</p> <p>15 A. I'm guessing it was Dana.</p> <p>16 Q. Now, I'll just represent to you that this</p> <p>17 was produced on behalf of Lorenzo Fertitta. Does</p> <p>18 that refresh your recollection that this might be --</p> <p>19 and this --</p> <p>20 A. It's possible. Yeah, I don't know numbers</p> <p>21 because I would just go off their name.</p> <p>22 Q. Right. So this was produced by Zuffa as</p> <p>23 part of the Lorenzo Fertitta compilation. So it's</p> <p>24 either to Dana or Lorenzo Fertitta, and I'm</p> <p>25 representing to you that --</p>
<p style="text-align: right;">467</p> <p>1 SILVA</p> <p>2 saying he was released."</p> <p>3 Is that right? On September 22nd, 2009?</p> <p>4 A. Yes. They -- the story said that he</p> <p>5 retired.</p> <p>6 Q. Okay. And then Helwani sends you an e-mail</p> <p>7 in response saying: "No, but it is saying he retired</p> <p>8 from MMA."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And then you respond to Helwani on</p> <p>12 September 22nd, 2009: "If someone retires we do not</p> <p>13 have to release them. It basically just puts their</p> <p>14 contract on hold."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Does that accurately describe your</p> <p>18 understanding of what happens when a fighter declares</p> <p>19 that they retired?</p> <p>20 A. Yes. When a fighter declares that they are</p> <p>21 retired, Tracy Long would send them a retirement</p> <p>22 letter.</p> <p>23 Q. And that would ensure that if the fighter</p> <p>24 later decided to unretire, he couldn't fight for</p> <p>25 anyone but Zuffa until he fulfilled the rest of the</p>	<p style="text-align: right;">469</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 Q. -- it was produced to us under Lorenzo</p> <p>4 Fertitta's compilation.</p> <p>5 And you sent this text; is that right?</p> <p>6 A. Correct.</p> <p>7 Q. And could you read to me what you said here?</p> <p>8 A. It's in microscopic print. I believe it</p> <p>9 says: "Bocek was sent a retirement letter but now</p> <p>10 he's asking for complete release. He's coming off a</p> <p>11 win so I would not give it to him. He could end up</p> <p>12 fighting for Bellaforce."</p> <p>13 Q. So he was sent a retirement letter and he</p> <p>14 was asking to be released. And you said, well, he's</p> <p>15 coming off a win, so you didn't want to give him a</p> <p>16 release?</p> <p>17 A. Correct.</p> <p>18 Q. You said if -- and -- and you said to</p> <p>19 Lorenzo, if we released him, he could end up fighting</p> <p>20 for Bellaforce?</p> <p>21 A. Correct.</p> <p>22 Q. What did you mean by "Bellaforce"?</p> <p>23 A. That's just a shortening of the two. It</p> <p>24 could be either or. And I hate typing, so it was</p> <p>25 shorter.</p>

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<p style="text-align: right;">470</p> <p>1 SILVA</p> <p>2 Q. So in -- in August of 2014, it would -- it</p> <p>3 would just be Bellator; right?</p> <p>4 A. Yeah. I think it was just a nickname that</p> <p>5 we gave them a while ago because we were -- I was</p> <p>6 making smart-aleck remarks.</p> <p>7 Q. And Mark Bocek was a fighter under contract</p> <p>8 with Zuffa at the time?</p> <p>9 A. Correct.</p> <p>10 Q. And if Zuffa had granted Bocek a complete</p> <p>11 release, he would no longer be under exclusive</p> <p>12 contract with Zuffa; right?</p> <p>13 A. Correct.</p> <p>14 Q. And then the exclusivity term in his</p> <p>15 contract would no longer prohibit him from fighting</p> <p>16 for another MMA promotion; right?</p> <p>17 A. Correct.</p> <p>18 Q. But as long as Zuffa did not grant him a</p> <p>19 release, the retirement clause in his contract</p> <p>20 ensured that he would remain under exclusive contract</p> <p>21 with Zuffa; correct?</p> <p>22 A. Correct. Because no contract would mean</p> <p>23 anything if all you had to do is say "I retired" to</p> <p>24 get out of it.</p> <p>25 Q. And you didn't think it was a good idea for</p>	<p style="text-align: right;">472</p> <p>1 SILVA</p> <p>2 fight for.</p> <p>3 Q. Right.</p> <p>4 A. That's what I'm asking him to do.</p> <p>5 Q. Right. But if he told you he's never going</p> <p>6 to fight again unless he can fight for Bellator, you</p> <p>7 would tell him honor your contract --</p> <p>8 A. Or if he said that he wanted to box or if he</p> <p>9 wanted to do another combat sport.</p> <p>10 Q. What would you tell him?</p> <p>11 A. No, you have a contract with us.</p> <p>12 Q. And so you did not want him to fight for</p> <p>13 Bellator, you wanted --</p> <p>14 A. I did not want him fighting for anybody</p> <p>15 besides the UFC that he was contracted to.</p> <p>16 Q. Okay. You can put that document aside.</p> <p>17 What kind of cell phone did you use in 2015</p> <p>18 while you were at Zuffa for business?</p> <p>19 A. I believe it was an iPhone.</p> <p>20 Q. And did you allow Zuffa's counsel in this</p> <p>21 case access to it at some point?</p> <p>22 A. Yes.</p> <p>23 Q. At what point did you provide Zuffa's</p> <p>24 counsel access to your phone?</p> <p>25 A. As soon as they asked me for it.</p>
<p style="text-align: right;">471</p> <p>1 SILVA</p> <p>2 Zuffa to grant Bocek a complete release in part</p> <p>3 because he was coming off a win, and that might</p> <p>4 benefit Bellator if a guy coming off a win at the UFC</p> <p>5 fought with Bellator?</p> <p>6 A. Well, I saw it as a possible strategy -- it</p> <p>7 wasn't that so much that as I saw it as a possible</p> <p>8 strategy.</p> <p>9 It's one thing if a guy comes off a loss,</p> <p>10 and you're going, oh, man, maybe I need to rethink</p> <p>11 this, maybe a guy is old and really past his prime;</p> <p>12 that was not the case for Bocek. He won and was</p> <p>13 still a relatively young fighter, so it seemed to me</p> <p>14 like it could be just a strategy to get out of his</p> <p>15 contract rather than a legitimate retirement.</p> <p>16 Q. And you did not want to entertain Bocek's</p> <p>17 potential strategy to get out of his contract in part</p> <p>18 because that would then allow Bocek to go fight for</p> <p>19 another promotion; correct?</p> <p>20 A. I wanted him to honor the contract that he</p> <p>21 signed.</p> <p>22 Q. And part of the way he would honor the</p> <p>23 contract that he signed would be not to fight for</p> <p>24 Bellator; correct?</p> <p>25 A. Would be to fight for us, who he agreed to</p>	<p style="text-align: right;">473</p> <p>1 SILVA</p> <p>2 Q. And when was that?</p> <p>3 A. I don't recall.</p> <p>4 Q. Well, when did you first hear that this case</p> <p>5 had been filed?</p> <p>6 A. I don't recall the date. But when it had</p> <p>7 been filed, they made us aware, and I complied</p> <p>8 immediately.</p> <p>9 Q. So the -- the case was filed, and as soon as</p> <p>10 you were made aware of that, you were asked to</p> <p>11 surrender your phone; is that right?</p> <p>12 A. I was -- believe we received instructions</p> <p>13 not to delete anything, not to do that, and then made</p> <p>14 arrangements to get my phone.</p> <p>15 Q. So you were asked not to delete any text</p> <p>16 messages or e-mails after the filing of the suit; is</p> <p>17 that right?</p> <p>18 A. Yeah, whenever they had asked me not to.</p> <p>19 They did put out a notification to everybody in the</p> <p>20 company, "Do not delete anything."</p> <p>21 Q. And did you comply with that note?</p> <p>22 A. I did.</p> <p>23 Q. Did you delete any e-mails or text messages</p> <p>24 after this litigation was filed?</p> <p>25 A. No.</p>

<p style="text-align: right;">474</p> <p>1 SILVA</p> <p>2 Q. Now, your -- the text message production</p> <p>3 that Zuffa made to us from your phone begins</p> <p>4 January 30th, 2015.</p> <p>5 A. (Nods head up and down.)</p> <p>6 Q. Did -- did you send any text messages from</p> <p>7 December 16th, 2014, to January 30th, 2015?</p> <p>8 A. I saved them as soon as they said to not</p> <p>9 delete. Before that, it was not my practice to keep</p> <p>10 texts. That's how I got tasks done, is if my phone</p> <p>11 was clear, I knew I had taken care of everybody who</p> <p>12 had texted me. Once they said don't do that anymore,</p> <p>13 I stopped doing it.</p> <p>14 Q. So I'm going to represent to you that this</p> <p>15 case was filed on December 16, 2014, and also that</p> <p>16 the first text that we have from the compilation from</p> <p>17 your phone is dated January 30th, 2015.</p> <p>18 Can you explain the gap between December</p> <p>19 16th, 2014, and January 30th, 2015?</p> <p>20 A. I have no idea. I just know that I stopped</p> <p>21 deleting when they told me to.</p> <p>22 Q. I want to ask you some questions about your</p> <p>23 preparation for this deposition today. Other than</p> <p>24 counsel did you talk to anyone else about the</p> <p>25 deposition today?</p>	<p style="text-align: right;">476</p> <p>1 SILVA</p> <p>2 announced, but I had no idea it had happened.</p> <p>3 Q. So nobody from WME interviewed you at all</p> <p>4 about the company?</p> <p>5 A. No.</p> <p>6 Q. When did you leave Zuffa?</p> <p>7 A. At the end of the year.</p> <p>8 Q. 2016?</p> <p>9 A. Correct.</p> <p>10 Q. And did -- and I think you said you left</p> <p>11 amicably, it was an amicable departure?</p> <p>12 A. Very.</p> <p>13 Q. And you retired; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. Why did you decide to retire then?</p> <p>16 A. They -- I don't know if they sent me a</p> <p>17 retirement letter, but -- no, I'd just done this --</p> <p>18 I'd been with the UFC for 22 years, and it caused me</p> <p>19 to travel a lot, and I don't like traveling. I don't</p> <p>20 like being away from my family and my friends. And I</p> <p>21 was -- it was just time to stop.</p> <p>22 But it was super amicable. I still, you</p> <p>23 know, stay in touch with Sean and with Mick. I love</p> <p>24 the sport. Still watch every UFC. I still watch</p> <p>25 every Bellator. I still watch every World Series --</p>
<p style="text-align: right;">475</p> <p>1 SILVA</p> <p>2 A. No.</p> <p>3 Q. For how long did you prepare for this</p> <p>4 deposition?</p> <p>5 A. A day and a half.</p> <p>6 Q. Were you shown any documents as part of your</p> <p>7 preparation for the deposition today?</p> <p>8 A. Some.</p> <p>9 MR. CRAMER: All right. I'd like to go</p> <p>10 off the record. I'm almost done.</p> <p>11 THE VIDEOGRAPHER: We're off the record at</p> <p>12 6:38.</p> <p>13 (Recess taken at 6:38 p m., proceedings</p> <p>14 resumed at 6:45 p.m.)</p> <p>15 THE VIDEOGRAPHER: We're back on the</p> <p>16 record at 6:45.</p> <p>17 BY MR. CRAMER:</p> <p>18 Q. Were you involved at all in the sale of the</p> <p>19 UFC from Zuffa to WME ING?</p> <p>20 A. No.</p> <p>21 Q. Did you speak with any of the WME folks</p> <p>22 after they purchased UFC?</p> <p>23 A. Way after the fact I did. But yeah, I did</p> <p>24 not find out that it had been sold till the middle of</p> <p>25 UFC 200 before -- right before it had been publicly</p>	<p style="text-align: right;">477</p> <p>1 SILVA</p> <p>2 or now they're changing the name. But I -- I love</p> <p>3 this sport.</p> <p>4 People would ask me, they were like, oh, so</p> <p>5 you got out because you couldn't stand the sport</p> <p>6 anymore? It's like, absolutely not. I get to love</p> <p>7 it more now because there's nothing attached. I</p> <p>8 don't have to do it, I just watch it because I enjoy</p> <p>9 watching it. So it -- it's much more pleasurable.</p> <p>10 Q. You said you still speak to Sean Shelby; is</p> <p>11 that right?</p> <p>12 A. Yes.</p> <p>13 Q. And Mick, who's Mick?</p> <p>14 A. Mick Maynard, he was -- Sean kind of moved</p> <p>15 into my position, and Mick Maynard moved into Sean's</p> <p>16 position.</p> <p>17 MR. ISAACSON: We've already got this on</p> <p>18 the record.</p> <p>19 MR. CRAMER: I know.</p> <p>20 Q. And you -- and you have a -- in your mind, a</p> <p>21 strong bond between you and -- and the people at the</p> <p>22 UFC; is that right?</p> <p>23 A. Yes.</p> <p>24 MR. CRAMER: All right. Thank you very</p> <p>25 much. That's all the questions I have.</p>